SUMMARY OF PUBLIC COMMENTS AND RESPONSES FOR THE FINAL AREA SOURCE SURFACE COATING AND PAINT STRIPPING RULE

U.S. Environmental Protection Agency
Office of Air Quality Planning and Standards
Emission Standards Division
Research Triangle Park, North Carolina 27711

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1.0 INTRODUCTION

On September 17, 2007, the U.S. Environmental Protection Agency (EPA) proposed national emission standards for hazardous air pollutants (NESHAP) for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources. The proposed rule partially fulfills the requirements of the Clean Air Act (CAA) to regulate area sources of HAP emissions. The EPA developed a list of HAP under section 112(k)(3)(B) which, as a result of area source emissions, pose the greatest threat to public health in the largest number of urban areas. These HAP are referred to as urban HAP. Section 112(c)(3) of the CAA requires EPA to identify and regulate source categories or subcategories of area sources that represent 90 percent of the emissions of the urban HAP.

This document contains summaries of the public comments that EPA received on the September 17, 2007 proposal to establish NESHAP for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources. In this document, EPA responds to the public comments. This summary of public comments and EPA responses serves as the basis for revisions made to the NESHAP for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources between proposal and promulgation.

Section 2.0 provides a list of the public commenters and their affiliations. The comments and EPA's responses are organized into the following sections of this document:

3.0. Applicability
4.0 Compliance date
5.0. Management Practices for Paint Stripping Operations
6.0 Authority to Regulate Miscellaneous Surface Coating Operations
7.0 Basis of Surface Coating Standards
8.0 Training Requirements
9.0 Spray Gun Requirements
10.0 Spray Booths

11.0 Spray Booth Filters
12.0 Spray Gun Washers
13.0 Reporting, Recordkeeping, and Compliance
14.0 Cost and Economic Impacts
15.0 Implementation
16.0 Public Comment Period

2.0 PUBLIC COMMENTS

The EPA received almost 100 unique comment letters for the September 17, 2007 proposed rule. The EPA also received copies of letters from a mass mailing campaign; 32 identical letters were received from consumers in support of the proposed rule (Item 0049), 203 letters were received from independent automobile repairers (Item 0050); and 36 letters were received from automobile repair employees (Item 0050). All of the public comments are contained in Docket ID No. OAR-2005-0526. Several comment letters were received shortly after the October 17, 2007 comment deadline and these comment letters are also included in the docket and summarized here. The commenter, affiliation, and item number in Docket ID No. OAR-2005-0526 are listed in Table 1 (some docket entries are duplicate entries of the same comment letter and these are marked as such). The comments and EPA's responses are summarized in the following sections.

The EPA also held a public hearing on Tuesday October 2, 2007 in Research Triangle Park, NC. There was one speaker at the public hearing. A transcript of the hearing is also included in the docket for the final rule (Item 0132), as well as a videotape provided by the hearing speaker (see Item 0154). The speaker at the public hearing lives near a small motor vehicle surface coating operation and was concerned that emissions from the operation were adversely affecting her health and her ability to enjoy her property. She provided a video tape documenting that visible emissions of some sort were coming from the site of the surface coating operation. She stated that she had complained to state agencies about the operation, but that the state had found no violations during two inspections of the property. The speaker supported more stringent regulation of motor vehicle surface coating operations.

TABLE 1. PUBLIC COMMENTS RECEIVED ON THE PROPOSED RULE FOR: NESHAP: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources Contained In EPA-HQ-OAR-2005-0526

Item Number	Commenter and Affiliation
EPA-HQ-OAR-2005-0526-0047	Comment submitted by Robert L. Redding, Jr., Washington, D.C. Representative, Automotive Service Association (ASA)
EPA-HQ-OAR-2005-0526-0048	Comment submitted by Mark Roberts, Owner, Auto Collision Works\Schertz Auto Service
EPA-HQ-OAR-2005-0526-0049	Mass Comment Campaign sponsoring organization unknown (32)
EPA-HQ-OAR-2005-0526-0050	Mass Comment Campaign sponsoring organization unknown (203)
EPA-HQ-OAR-2005-0526-0051	Comment submitted by G. Valasek
EPA-HQ-OAR-2005-0526-0052	Comment submitted by Bill Watson, Signs Manufacturing Corporation
EPA-HQ-OAR-2005-0526-0053	Comment submitted by S. Tisdale
EPA-HQ-OAR-2005-0526-0054	Comment submitted by Stephen B. McDonald, Vice President, Government Affairs, Specialty Equipment Market Association (SEMA)
EPA-HQ-OAR-2005-0526-0055	Mass Comment Campaign sponsoring organization unknown (26)
EPA-HQ-OAR-2005-0526-0056	Comment submitted by Hugo Pardo, Excel Body Shop
EPA-HQ-OAR-2005-0526-0057	Comment submitted by Larry Cernosek, Deer Park Paint &(and) Body
EPA-HQ-OAR-2005-0526-0058	Comment submitted by Kyle Seymour, President and CEO, Xtek, Inc.
EPA-HQ-OAR-2005-0526-0059	Comment submitted by Dave Copeland, Manager, Air Quality, Corporate Safety and Environmental Services, Praxair, Inc.
EPA-HQ-OAR-2005-0526-0060	Comment submitted by Brian Henne, Bemis Manufacturing Company
EPA-HQ-OAR-2005-0526-0061	Comment submitted by R. E. Gandley
EPA-HQ-OAR-2005-0526-0062	Comment submitted by Jeff Peevy, I-CAR Director, Field Operations
EPA-HQ-OAR-2005-0526-0063	Comment submitted by John McKnight, Director, Environmental & Safety Compliance, National Marine Manufacturers Association (NMMA) and Brooke Fishel, Operations Manager, Association of Marina Industries (AMI)

Item Number	Commenter and Affiliation
EPA-HQ-OAR-2005-0526-0064	Comment submitted by Kurt W. Anderson, Director Environment, Health and Safety, Monaco Coach Corporation
EPA-HQ-OAR-2005-0526-0065	Comment submitted by David Curtis, Representative, San Antonio Shoe Inc.
EPA-HQ-OAR-2005-0526-0066	Comment submitted by John A. and Betsy A. Roof, General Store Furniture Restoration
EPA-HQ-OAR-2005-0526-0067	Comment submitted by Tony Molla, Vice President Communications, National Institute for Automotive Service Excellence (ASE)
EPA-HQ-OAR-2005-0526-0068	Comment submitted by Rick Carroll, Safety & Environmental Coordinator, W. Silver, Inc.
EPA-HQ-OAR-2005-0526-0069	Anonymous public comment
EPA-HQ-OAR-2005-0526-0070	Comment submitted by Richard Wales, Engineering, Mojave Desert Air Quality Management District (MDAQMD)
EPA-HQ-OAR-2005-0526-0071	Comment submitted by Eldon Heaston, Executive Director, Antelope Valley Air Quality Management District (AVAQMD)
EPA-HQ-OAR-2005-0526-0072	Comment submitted by Ronnie Watkins, Worley Welding, Inc.
EPA-HQ-OAR-2005-0526-0073	Comment submitted by Mary Goodman, Air Quality Manager, Northern Engraving Corporation (NEC)
EPA-HQ-OAR-2005-0526-0074	Comment submitted by John S. Lyons, Director, Division for Air Quality (DAQ), Kentucky Environmental and Public Protection Cabinet
EPA-HQ-OAR-2005-0526-0075	Comment submitted by John L. Konefes, Director, Iowa Waste Reduction Center, University of Northern Iowa
EPA-HQ-OAR-2005-0526-0076	Comment submitted by Jim Tucholski, Honeywell Federal Manufacturing & Technologies
EPA-HQ-OAR-2005-0526-0077	Comment submitted by Nolan Penney, Air and Radiation Management Administration of the Maryland Department of the Environment (MDE)
EPA-HQ-OAR-2005-0526-0078	Comment submitted by Susan E. Peterson, Wisconsin Auto Collision Technicians Association Ltd. (WACTAL)
EPA-HQ-OAR-2005-0526-0079	Comment submitted by Mike Schultz, Environmental Manager, General Dynamics C4 Systems

Item Number	Commenter and Affiliation
EPA-HQ-OAR-2005-0526-0080	Comment submitted by John A. Roof and Betsy A. Roof, General Store Furniture Restoration ***(Duplicate of item 0066.)***
EPA-HQ-OAR-2005-0526-0081	Comment submitted by Harjit S. Galhotra, President, Galson Auto & Body
EPA-HQ-OAR-2005-0526-0082	Comment submitted by Robert L. Redding, Jr., Washington, D.C. Representative, Automotive Service Association (ASA)
EPA-HQ-OAR-2005-0526-0083	Comment submitted by Hoai B. Huynh, Director, Environment, Safety & Health, Aerospace Industries Association of America (AIA)
EPA-HQ-OAR-2005-0526-0084	Comment submitted by Valerie Ughetta, Director of Stationary Sources, Alliance of Automobile Manufacturers (Alliance)
EPA-HQ-OAR-2005-0526-0085	Comment submitted by Douglas I. Greenhaus, Director, Environment, Health and Safety, The National Automobile Dealers Association (NADA)
EPA-HQ-OAR-2005-0526-0086	Comment submitted by David J. Shaw, Director, Division of Air Resources, New York State Department of Environmental Conservation (NYSDEC)
EPA-HQ-OAR-2005-0526-0087	Comment submitted by Stephen P. Risotto, Executive Director, Halogenated Solvents Industry Alliance, Inc. (HSIA)
EPA-HQ-OAR-2005-0526-0088	Comment submitted by Kathryn W. Lauerman, Chairman, Colorado Compliance Advisory Panel (CAP) for the Small Business Assistance Program (SBAP)
EPA-HQ-OAR-2005-0526-0089	Comment submitted by Bruce A. Hopkins, Vice President, Standards and Education, Recreation Vehicle Industry Association (RVIA)
EPA-HQ-OAR-2005-0526-0090	Comment submitted by Vinson Hellwig, Co-Chair, Michigan, National Association of Clean Air Agencies (NACAA), and Robert Colby, Co-Chair, Chattanooga, Tennessee, National Association of Clean Air Agencies (NACAA)
EPA-HQ-OAR-2005-0526-0091	Comment submitted by Lorraine Krupa Gershman, Director, Regulatory and Technical Affairs, American Chemistry Council (ACC)

Item Number	Commenter and Affiliation
EPA-HQ-OAR-2005-0526-0092	Comment submitted by John Schweitzer, Senior Director of Government Affairs, American Composites Manufacturers Association (ACMA)
EPA-HQ-OAR-2005-0526-0093	Comment submitted by Matthew Todd, Regulatory Analyst, American Petroleum Institute (API)
EPA-HQ-OAR-2005-0526-0094	Comment submitted by James Brooks, Bureau Director, Bureau of Air Quality, State of Maine Department of Environmental Protection (MDEP)
EPA-HQ-OAR-2005-0526-0095	Comment submitted by Stephen V. Capone, Air Regulatory Programs Leader, Saudi Basic Industries Corporation (SABIC) Innovative Plastics US LLC (formerly GE Plastics)
EPA-HQ-OAR-2005-0526-0096	Comment submitted by James D. Jones, Senior Consultant, Alcoa Inc.
EPA-HQ-OAR-2005-0526-0097	Comment submitted by Eric L. Hiser, Attorney, Jordan Bischoff & Hiser, P.L.C., on behalf of Nucor Corporation ("Nucor")
EPA-HQ-OAR-2005-0526-0098	Comment submitted by Colin P. Carroll, Regulatory Counsel, Obadal, Filler, MacLeod & Klein on behalf of Aeronautical Repair Station Association, et al.
EPA-HQ-OAR-2005-0526-0099	Comment submitted by Lois McQuade, Senior Project Manager, TITAN Engineering, Inc. (TITAN)
EPA-HQ-OAR-2005-0526-0100	Comment submitted by Alan Bahl, EHS Team Member, BASF Corporation
EPA-HQ-OAR-2005-0526-0101	Comment submitted by Charles Arnold
EPA-HQ-OAR-2005-0526-0102	Comment submitted by Kurt Chellberg, Tecor Inc.
EPA-HQ-OAR-2005-0526-0103	Comment submitted by Lester W. Young, Principal Consultant, Applied Automotive Strategies, LLC
EPA-HQ-OAR-2005-0526-0104	Comment submitted by Janet G. Bounds, Senior Environmental Geologist, MidContinent/Alaska SBU, Union Oil Company of California (UOCC), Chevron North America Exploration and Production
EPA-HQ-OAR-2005-0526-0105	Comment submitted by Jim Enright, Senior Product Engineer, Research Products Corporation

Item Number	Commenter and Affiliation
EPA-HQ-OAR-2005-0526-0106	Comment submitted by Kent VonBehren, President and Angela H. Jones, Environmental Health and Safety Director, Medallion Refinish System
EPA-HQ-OAR-2005-0526-0107	Comment submitted by Steven A. DeGabriele, Chair, States Environmental Results Program Consortium (ERPC)
EPA-HQ-OAR-2005-0526-0108	Comment submitted by Frederick G. Fedri, Principal Environmental Specialist, Corporate Health, Environment and Safety, Occidental Chemical Corporation (OCC)
EPA-HQ-OAR-2005-0526-0109	Comment submitted by Laura D. Keller, Stites & Harbison, PLLC, on behalf of The American Institute of Steel Construction (AISC)
EPA-HQ-OAR-2005-0526-0110	Comment submitted by Edwin J. Hill, Vice President, Service Operations, CarMax, Inc.
EPA-HQ-OAR-2005-0526-0111	Comment submitted by Robert J. Morehouse, Exxon Mobil Corporation
EPA-HQ-OAR-2005-0526-0112	Comment submitted by Jerry Campbell, Director, Air Management Division, Environmental Protection Commission of Hillsborough County (EPCHC)
EPA-HQ-OAR-2005-0526-0113	Comment submitted by Aaron M. Lowe, Vice President, Government Affairs, Automotive Aftermarket Industry Association (AAIA)
EPA-HQ-OAR-2005-0526-0114	Comment submitted by B. Keith Overcash, P. E., North Carolina Department of Environment and Natural Resources (NCDENR)
EPA-HQ-OAR-2005-0526-0115	Comment submitted by James E. Sydnor, Director, Air Quality Division, Virginia Department of Environmental Quality (DEQ)
EPA-HQ-OAR-2005-0526-0116	Comment submitted by Eddie Ehlert, Mazdonly, Ltd.
EPA-HQ-OAR-2005-0526-0117	Comment submitted by Shelley Kaderly, Air Quality Division Administrator, Nebraska Department of Environmental Quality (DEQ)
EPA-HQ-OAR-2005-0526-0118	Comment submitted by Katrina Stewart, Interim Program Manager, Saint Louis Air Pollution Control Program, City of St. Louis Department of Health
EPA-HQ-OAR-2005-0526-0119	Comment submitted by Jim Sell, Senior Counsel, National Paint and Coatings Association (NPCA)

Item Number	Commenter and Affiliation
EPA-HQ-OAR-2005-0526-0120	Comment submitted by Jeff Hayes, Manager, Paint and Finish Operations, Putzmeister America, Inc.
EPA-HQ-OAR-2005-0526-0121	Comment submitted by Sara R. Cupp, Environmental Manager, New Millennium Building Systems, LLC
EPA-HQ-OAR-2005-0526-0122	Comment submitted by Stephen B. McDonald, Vice President, Government Affairs, Specialty Equipment Market Association (SEMA)
EPA-HQ-OAR-2005-0526-0123	Comment submitted by Glenn Shankle, Executive Director, Texas Commission on Environmental Quality (TCEQ)
EPA-HQ-OAR-2005-0526-0124	Comment submitted by Dan Nickey, Chair, National Steering Committee, National Network of State Small Business Environmental Assistance and Small Business Ombudsman Programs
EPA-HQ-OAR-2005-0526-0125	Comment submitted by John A. Paul, Administrator, Regional Air Pollution Control Agency (RAPCA)
EPA-HQ-OAR-2005-0526-0126	Comment attachment submitted by Edwin J. Hill, Vice President, Service Operators, CarMax, Inc. ***(Duplicate of item 0110)***
EPA-HQ-OAR-2005-0526-0127	Comment submitted by Robert Redding, Jr., Washington DC Representative, Automotive Service Association (ASA)
EPA-HQ-OAR-2005-0526-0128	Comment submitted by Albert Sullivan, Albert's Reconditioned Used Cars
EPA-HQ-OAR-2005-0526-0129	Comment submitted by Glenn Shankle, Executive Director, Texas Commission on Environmental Quality (TCEQ) ***(Duplicate of Item 0123)***
EPA-HQ-OAR-2005-0526-0130	Comment submitted by Glenn Shankle, Executive Director, Texas Commission on Environmental Quality (TCEQ) ***(Second Duplicate of Item 0123)***
EPA-HQ-OAR-2005-0526-0131	Comment submitted by James Nolan, Director-Compliance, Puget Sound Clean Air Agency
EPA-HQ-OAR-2005-0526-0132	Public Hearing Testimony from USEPA, Research Triangle Park, North Carolina (10/2/2007)
EPA-HQ-OAR-2005-0526-0133	Comment submitted by Elizabeth Basil, Air Toxics Section Manager, Bureau of Air Quality, South Carolina Department Health and Environmental Control (SC DHEC)

Item Number	Commenter and Affiliation
EPA-HQ-OAR-2005-0526-0134	Comment submitted by Glen Hulbert, General Manager, Deery Brothers Collision Center
EPA-HQ-OAR-2005-0526-0135	Comment submitted by James Leatherwood, Director, Environmental Management Division, National Aeronautics and Space Administration (NASA)
EPA-HQ-OAR-2005-0526-0136	Comment submitted by Frederick Fedri, Principal Environmental Specialist, Occidental Chemical Corporation (OCC)
EPA-HQ-OAR-2005-0526-0137	Comment submitted by the Reusable Industrial Packaging Association (RIPA)
EPA-HQ-OAR-2005-0526-0138	Comment submitted by Rich Raiders, Environment and Sustainable Development Department, Arkema, Inc.
EPA-HQ-OAR-2005-0526-0139	Comment submitted by Laura D. Keller, The American Institute of Steel Construction ***(Duplicate of item 0109)***
EPA-HQ-OAR-2005-0526-0140	Comment submitted by John A. Paul, Administrator, Regional Air Pollution Control Agency (RAPCA) ***(Duplicate of Item O125)***
EPA-HQ-OAR-2005-0526-0141	Comment submitted by James Kavanaugh, Director, State of Missouri Department of Natural Resources
EPA-HQ-OAR-2005-0526-0142	Comment submitted by B. Keith Overcash, P.E., Director, Division of Air Quality, North Carolina Department of Environment and Natural Resources (NCDENR) ***(Duplicate of item 0114)***
EPA-HQ-OAR-2005-0526-0143	Comment submitted by Lois McQuade, Senior Project Manager, Titan Engineering, Inc. ***(Duplicate of item 0099)***
EPA-HQ-OAR-2005-0526-0144	Comment submitted by David Darling, Director, and Alison A. Keane, Esq., Government Affairs, Environmental Affairs, The National Paint and Coatings Association (NPCA)
EPA-HQ-OAR-2005-0526-0145	Comment submitted by Paul R. Jann, Senior Regulatory Consultant, DuPont Engineering Research and Technology
EPA-HQ-OAR-2005-0526-0146	Comment submitted by Merissa Mesle, Human Resources, FIH-Foxconn
EPA-HQ-OAR-2005-0526-0147	Comment submitted by Thomas W. Sullivan, Chief Counsel and Keith W. Holman, Assistant Chief Counsel, Office of Advocacy, United States Small Business Administration (SBA)

Item Number	Commenter and Affiliation
EPA-HQ-OAR-2005-0526-0148	Comment submitted by Paul R. Jann, Senior Regulatory Consultant, DuPont Engineering Research & Technology ***(Duplicate of item 0145)***
EPA-HQ-OAR-2005-0526-0149	Comment submitted by Leslie Sue Ritts, Counsel to National Environmental Development Association's Clean Air Project NEDA/CAP
EPA-HQ-OAR-2005-0526-0150	Comment submitted by Mike McGinness, EcoShield Environmental Systems, Inc.
EPA-HQ-OAR-2005-0526-0151	Comment submitted by Mark Maslyn, Executive Director, Public Policy, American Farm Bureau Federation (AFBF)
EPA-HQ-OAR-2005-0526-0152	Comment submitted by H. M. Fuentes
EPA-HQ-OAR-2005-0526-0153	Comment submitted by William L. Shoup, Executive Director, The Society for Protective Coatings (SSPC)
EPA-HQ-OAR-2005-0526-0154	Email from Warren Johnson, USEPA, re: FedEx of original copy of the Research Triangle, North Carolina public hearing testimony and original VHS tape - 10/2/2007
EPA-HQ-OAR-2005-0526-0155	Comment submitted by Laurie Burt, Commissioner, Massachusetts Department of Environmental Protection
EPA-HQ-OAR-2005-0526-0156	Comment submitted by Michael K. Haufe, Technical Director/Environmental Coordinator, and T. Wayne Vickers, President, DPD Division, Columbus Industries, Inc.
EPA-HQ-OAR-2005-0526-0157	Comment submitted by Michael K. Haufe, Technical Director / Environmental Coordinator and T. Wayne Vickers, President, DPD Division, Columbus Industries, Inc.

3.0 APPLICABILITY

Comment: Several commenters (0060, 0063, 0078, 0079, 0084, 0085, 0088, 0089, 0092, 0097, 0099, 0124, 0137, 0145, 0147) argued that the rule should apply only to surface coating facilities that emit the target HAP. Some of them indicated that the target HAP should be defined as the HAP for which the motor vehicle and mobile equipment and miscellaneous surface coating source categories were listed. These are specifically compounds of chrome, lead, manganese, nickel, and cadmium (Cr, Pb, Mn, Ni, and Cd, respectively). Others (0119) indicated EPA needs to clarify which target HAP are being regulated and whether it is only the target HAP for which the categories were listed or also other HAP.

Response: The EPA agrees with the commenters when these comments are applied to miscellaneous surface coating operations, but does not agree with the commenters when these comments are applied to motor vehicle and mobile equipment surface coating operations. The final rule includes separate applicability provisions for motor vehicle and mobile equipment surface coating operations, and for miscellaneous surface coating operations.

The EPA recognizes that many miscellaneous surface coating operations exist that do not spray apply coatings containing the target HAP. Therefore, the applicability sections have been revised so that the final rule will apply to only miscellaneous surface coating sources that spray apply coatings containing the target HAP. If your miscellaneous surface coating operations do not spray apply any coatings containing the target HAP, then you are not subject to this rule and do not need to comply with the requirements for operator training, spray guns, or spray booths. This change in the language of the applicability provision accurately reflects the sources for which the miscellaneous surface coating source category was listed, because sources that do not spray apply coatings containing the target HAP will have no target HAP emissions and were therefore not part of the inventory on which the source category listing was based. It will also create an incentive for all miscellaneous surface coating sources to review the coatings they are spray applying and find substitutes for those that contain the target HAP or to switch to non-

spray methods to apply those coatings. Although some contract coaters and "job shops" may use a large number of different coatings, most miscellaneous surface coating operations use only a small number of coatings and the composition data for these can be reviewed to identify whether these coatings contain the target HAP.

However, the final rule applies the training and equipment standards (spray gun and spray booth) to all sources that spray-apply coatings to motor vehicles and mobile equipment. The EPA has decided to regulate all motor vehicle and mobile equipment surface coating operations because of the wide variety of spray-applied coatings used in these operations, and the relative lack of knowledge and control many of these operations have over whether or not their coatings contain the target HAP. The EPA's understanding, based on site visits and communications with the industry, is that many shops, especially smaller ones, purchase coatings "over the counter" on a retail basis and usually do not receive composition data, such as a material safety data sheet (MSDS), with these coatings. In addition, when a specific color is needed for refinishing a vehicle, it is usually custom-mixed from any number of about 50 different toners, either by the painter at the shop, or by the coating retailer. Therefore, it can be impossible to determine whether any particular coating being sprayed contains the target HAP, unless the HAP composition of all coatings within the shop is known. This situation would complicate enforcement and compliance with the standards if sources needed to know the target HAP content of all materials that were being spray-applied.

In addition, the automotive refinish coating suppliers have indicated in meetings with the EPA that they are currently seeking to formulate coatings, including both primers and color coats, that do not contain the target HAP. However, the coating suppliers have argued that removing the target HAP can make it difficult to achieve proper color match with original equipment manufacturer coatings or to achieve the same level of corrosion protection as conventional coatings. As a result, many automotive refinish coatings are still being marketed that contain these target HAP.

Therefore, the EPA has decided that all motor vehicle and mobile equipment surface coating operations should still be required to comply with all of the requirements for painter training, spray guns, and spray booths that were included in the proposed rule. The EPA received a substantial number of comments from motor vehicle and mobile equipment surface coating shop owners that supported these requirements as being consistent with current good environmental and worker protection practices. (See other comment responses for additional

clarifications on applicability that exclude coating of personal property and vehicles, facility maintenance coating, etc.)

Comment: Several commenters (0120, 0090, 0095, 0121, 0123, 0149) indicated that the rule should apply only to sources that use HAP-containing coatings and solvents, and that if a source does not use any HAP, it should not be covered by the rule. Other commenters (0070, 0071, 0083) indicated that the rule should cover only sources that use coatings containing one of the 33 listed urban air toxics. One commenter (0118) indicated facilities should be required to use approved types of spray equipment only if they use HAP coatings, and should be allowed to use other types of equipment when spraying non-HAP coatings. Another (0097) said the rule should not apply to separate coating lines that use only non-HAP coatings and solvents.

Response: The final rule does not apply to miscellaneous surface coating operations that do not use coatings that contain the target HAP. These target HAP are a subset of the 33 listed urban air toxics. Therefore, a miscellaneous surface coating operation could use these other urban air toxics, but not the target HAP, and would not be subject to the final rule.

The final rule applies to all surface coating operations using spray applied coatings at each affected source, and the affected source is defined as the collection of all spray surface coating operations and related equipment at the source. Therefore, a source cannot segregate their surface coating operations and demonstrate compliance only for those coating operations that contain the target HAP and not demonstrate compliance for other coating operations.

Comment: Some commenters (0084, 0097, 0119) suggested that the rule should not apply to materials that contain less than 0.1 percent HAP for an OSHA-defined carcinogen or less than 1 percent for any other individual HAP. One (0097) stated that users will not know if coatings contain lower levels of HAP because OSHA and EPA do not require suppliers to indicate HAPs below these notification levels. Another commenter (0092) suggested a 1 percent threshold for the listed heavy metals. Another (0091) suggested only requiring control of coatings containing greater than 5 percent HAP. Others (0090, 0147) suggested that sources using only low-HAP coatings and strippers should be exempt, but did not suggest a numerical definition of low-HAP.

Response: The final rule does not apply to miscellaneous surface coating sources that do not spray any coatings that contain the target HAP. At those sources that spray coatings that contain the target HAP, the rule requirements apply to all spray coating operations, except certain exempt spray coating operations. A coating is considered to contain the target HAP if it contains any individual target HAP at 0.1 percent HAP or more for an OSHA-defined

carcinogen, or 1 percent or more for any other individual HAP. These are the same reporting levels required by OSHA for material safety data sheets.

Comment: One commenter (0076) suggested that the rule should be revised to add the National Nuclear Security Administration (NNSA) to the list of installations to which this subpart does not apply. The commenter noted that EPA is planning that surface coating and paint stripping at NNSA installations would be addressed by the military surface coating NESHAP that is under development.

Another commenter (0083) said that the exclusion for surface coating at DoD and NASA installations should include contractors operating at those installations. The same commenter recommended including "installations fabricating metal parts for the armed services" in §63.11170(d)(1). The commenter (0083) also suggested adding other vehicles made strictly for the military that may be carrying other types of hardware (radar, communications, etc.) in the exemption in §63.1170(d)(2).

One commenter (0150) questioned why DoD installations were exempt from the rule since they are often large users of MeCl paint strippers and sources of metal HAP emissions from surface coating.

Response: The EPA agrees and has added NNSA installations to the list of installations to which this subpart does not apply. These installations are exempt from subpart HHHHHH because both the paint stripping and surface coating operations will be addressed by the military surface coating NESHAP that is under development. Contractors that are operating at DoD, NASA, and NNSA installations are included under the exemption for surface coating operations at those installations and will be subject to requirements under the military surface coating NESHAP being developed. However, contractors that are fabricating equipment for DoD, NASA, or the NNSA but do not operate at one of those installations would be subject to this rule and not eligible for the exemption.

Comment: Several comments (0054, 0074, 0088, 0091, 0094, 0095, 0101, 0115, 0117, 0124. 0150) noted that the applicability of the proposed rule, as written, could be interpreted to apply to all paint stripping and surface coating operations, and included no exemptions for automobile hobbyists or homeowners stripping and painting their own property or vehicles. Nearly all of the commenters (0054, 0074, 0088, 0094, 0095, 0101, 0115, 0117, 0124, 0147, 0149, 0150) felt that paint stripping and surface coating by hobbyists and homeowners should be exempt from the rule. Some of these commenters indicated that regulating home owners and

hobbyists would be burdensome for regulatory agencies and the public, and a few (0054, 0090, 0117) noted that hobbyist and homeowner activities are difficult to locate because they are located in residential areas and are intermittent. However, one commenter (0050) suggested that the rule should have no exemptions and any individual painting vehicles should be subject to the proposed equipment and training requirements.

Some of the commenters (0054, 0088, 0095, 0124) suggested that to exclude homeowners and hobbyists, the rule could be written to apply only to "commercial" sources or to address sources that operate in commercial or other settings "for profit".

Several commenters (0054, 0070, 0071, 0074, 0076, 0083, 0084, 0089, 0090, 0092, 0113, 0115, 0117, 0123, 0124, 0125, 0138, 0147, 0149) suggested that EPA establish or considered a de minimis usage threshold, based on either major source surface coating rules (e.g., subparts PPPP or MMMM), 2007 CTG guidance documents for metal furniture and large appliance coatings, or state volatile organic compounds (VOC) rules. Some of these commenters (0054, 0070, 0071, 0074, 0092, 0113, 0115, 0117) suggested the threshold as a means to exclude noncommercial paint stripping, personal vehicle refinishing, or surface coating operations performed by individuals. Others (0054, 0076, 0083, 0084, 0089, 0090, 0092, 0099, 0117, 0138) suggested a de minimis threshold in order to be consistent with other surface coating regulations, to exclude non-manufacturing operations, to exclude incidental surface coating operations at commercial sources, and/or to reduce burden on regulatory agencies and small sources and focus efforts on the larger emitters. Two commenters (0070, 0071) wanted clarification on whether the de minimis levels in subparts PPPP and MMMM apply to the proposed area source rules. One (0077) suggested an emissions threshold of 1 ton VOC per year to avoid burdening state agencies and small sources with regulations and focus efforts on more significant sources. Another (0096) suggested 1,000 lbs of coating solids sprayed annually for miscellaneous coating operations. Another commenter (0128) owns a shop that uses only one gallon of paint per month to recondition used cars and suggested that level should be exempt.

Response: The EPA agrees that homeowner and hobbyist paint stripping and surface coating activities should not be subject to the standards. The analyses that were the basis for the source category listings for paint stripping, miscellaneous surface coating, and motor vehicle and mobile equipment surface coating focused primarily on commercial operations, along with some government and institutional operations, such as municipal garages that service fleet vehicles.

Homeowners and hobbyists were not part of these analyses and were not intended to be covered by the proposed standards.

Therefore, the final rule has been revised to clarify that it does not cover paint stripping and surface coating performed by individuals on their personal vehicles, possessions, or property, either as a hobby or for maintenance. This subpart also does not apply when these operations are performed by individuals for others without compensation.

However, for motor vehicle and mobile equipment surface coating operations, an individual surface coating more than two vehicles per year will be covered by the rule. This limit on the number of vehicles coated per year was included so that commercial automobile surface coating shops could not avoid compliance simply by claiming to be a hobby shop. The limit was based on information collected from automobile hobbyists during the rule development. The hobbyists that provided information to the EPA suggested that a legitimate hobbyist would complete no more than two automobile restorations or customizations per year.

The EPA is not including a volumetric coating usage threshold in the final rule for either motor vehicle and mobile equipment surface coating operations, or for miscellaneous surface coating operations, as suggested by some commenters, because the threshold is not supported by the baseline inventory on which we based our listing decision. CAA section 112(c)(3) requires that EPA list sufficient categories and subcategories to ensure that area sources representing 90 percent of the emissions of the 30 listed urban HAP are subject to regulation. The CAA contains no exemption from the statutory requirement to regulate sources accounting for 90 percent of the emissions of an urban HAP. The inventory does not indicate that in listing the categories at issue here EPA included only those sources that use coatings above a certain threshold amount. Moreover, the commenter's reliance on the use of thresholds in certain major source HAP rules and State VOC rules is misplaced. EPA listed the area source categories at issue in this rule because the categories accounted for a certain percentage of the emissions necessary to meet the 90 percent requirement for the target urban HAP; therefore, regulation of the categories as listed is necessary for EPA to attain the 90 percent requirement and comply with the requirements of section 112(c)(3) and 112(k). The rules on which the commenters rely were not issued under these provisions.

Comment: Three commenters (0077, 0088, 0123) suggested EPA exempt from the proposed rule operations that use less than 150 gallons per year of paint stripper that contains MeCl. A commenter (0088) justified the exemption as allowing minor paint stripping operations

to continue, and let the regulating authorities focus on the more significant operations and facilities. One commenter (0087) suggested exempting paint stripping operations below a certain size, but did not suggest a specific number. A commenter (0096) suggested a threshold of 319 liters (84.2 gallons or 1,000 lb) of MeCl in paint strippers, below which sources would be exempt. Another (0078) said many collision repair shops use only 1 or 2 gallons of MeCl containing strippers per year, and suggested an exemption for such very small usages to avoid burden on regulatory agencies for review of reports. The commenter indicated records could be kept on site to verify the low usage.

Response: EPA is required by the CAA to regulate emissions from area sources, which are, by definition, small sources. Based on baseline emission estimates updated with additional information provided by commenters, we estimate that almost 1,000 tons of MeCl are emitted from sources that use less than 150 gallons of MeCl strippers per year. This represents around 5 percent of the total area source MeCl emissions considered in the original section 112(k) inventory. While we appreciate the opinions of the commenters to focus on the more significant emitters, we cannot justify ignoring this level of MeCl emissions.

We have minimized the requirements and burden on these low level users by not requiring them to develop MeCl minimization plans. We do not feel that asking them to consider alternatives to using MeCl-based strippers is overly burdensome. The reporting requirements for these low level users are also minimal. They must submit an initial notification letter and keep MeCl-based stripper purchase or use records, which we believe would be required for tax purposes already. We do not believe that receiving one letter per facility would be overly burdensome for permitting agencies. In conclusion, we feel that our approach has adequately balanced the requirements of the CAA without unduly burdening small businesses in this source category or permitting agencies.

Comment: Several commenters (0090, 0116, 0119, 0124) asked for clarification on whether the rule applies to mobile automobile refinishers that perform spot repairs and other refinishing, such as fender and bumper repairs, at the customer's location, rather than in a conventional collision repair shop. One (0090) suggested that very small touch ups should not require a fully enclosed booth, which would be burdensome. One other commenter (0116) also asked for clarification on whether motor vehicle refinishing coating operations (primarily refinishing of car bumpers and fenders) using "miniature" spray guns would be subject to the same standards as other motor vehicle refinishing operations. The commenter (0116) felt that

surface coating with these miniature spray guns should be subject to the proposed standards because their use can result in substantial releases, but felt that the final rule should clarify this applicability relative to operations done with air brushes. One commenter (0079) requested that all airbrush spray coating operations be exempt. Alternatively, the commenter (0079) asked EPA to increase the size of the spray cup allowed on air brushes that would be exempt from the standards and suggested that 3.0 fluid ounces is a commonly sold size of airbrush.

Response: The proposed and final rule is intended to cover mobile motor vehicle refinishing operations that bring the coating equipment and supplies to the repaired vehicle, as well as those in which the vehicle is brought to a conventional collision repair shop. In the final rule, these mobile refinishers are subject to the rule requirements for training, spray equipment, and the use of a spray booth or other ventilated and filtered enclosure if they spray apply coatings from a spray gun with a cup size greater than 3.0 fluid ounces (89 cubic centimeters). If they use a cup size equal to or smaller than 3.0 fluid ounces, they do not need to comply with the requirements for training, spray guns, and ventilated and filtered enclosures.

The proposed rule would not have applied to spray-applied coatings using an airbrush or spray gun with a cup size of 1.0 fluid ounce (30 cubic centimeters) or less, and this was intended, in part, to address mobile repair and refinishing operations that performed repairs of small stone chips and scratches, and graphic artists and others using these small spray guns to paint motor vehicles, signs, or other items that are potentially subject to the rule. These touch up and repair operations, and graphic arts painting on vehicles, were not part of the original inventory that focused on collision repair shops and other types of motor vehicle and mobile equipment surface coating, so the source category does not include surface coating with small airbrushes, and such operations are not subject to this rule.

However, during the development of this rule, the EPA learned that more motor vehicle and mobile equipment surface coating that was formerly done by collision repair shops (and as such was reflected in the source category listing) is now being done by mobile operators. Since this practice is becoming more common, the EPA has decided that this source of emissions should be regulated on the same basis as motor vehicle and mobile equipment surface coating that takes place at a fixed location. Even so, the EPA felt it was not necessary to regulate in this rule small touch up and spot repair operations done with an airbrush, because these operations were not reflected in the original inventory and source category listing.

Since the EPA could identify no single characteristic or group of characteristics to clearly differentiate a larger spray gun from an "air brush" except the amount of coating in the spray cup, we have decided to define applicability based on the cup size of the spray equipment. In the final rule, all motor vehicle and mobile equipment spray coating operations and miscellaneous surface coating operations with a cup size greater than 3.0 ounces (89 cubic centimeters) would be subject to the applicable standards for painter training and equipment. Surface coating operations with a smaller cup size would not be subject to the standards for spray-applied surface coating operations since these are typically just touch up and repair surface coating.

This size (3.0 ounces or 89 cubic centimeters) was selected based on public comments, a review of vendor literature for miniature spray guns and air brushes, and discussions with collision repair shop owners that commented on the proposed rule. One commenter (0079) indicted that it was the largest cup size used on air brushes at their facility for applying stencil markings. According to shop owners, this cup size represents the minimum practical amount of coating that could be used to refinish a bumper or fender. Therefore, it helps distinguish those sources that are doing small scratch and spot repairs from those that are doing work that is more typically done at a collision repair shop.

Comment: Several commenters (0065, 0066, 0124) stated that the proposed requirements for miscellaneous surface coating operations, as written, could be interpreted to potentially apply to all surface coating operations beyond those associated with the manufacture of plastic and metal parts and products. Examples cited by the commenters included the spray application of adhesives that do not include any of the target HAP (0124), the spray application of coatings in the manufacture of leather shoes (0065), and the spray application of coatings (0066) in the restoration of wood furniture.

Several commenters (0063, 0068, 0076, 0084, 0091, 0092, 0094, 0095, 0097, 0118, 0124, 0131, 0138. 0145, 0147) asked that the rule should specifically exclude surface coating operations that do not involve the use of spray-applied liquid coatings, since these operations have little potential for the target HAP emissions. Some of the commenters also pointed out that some of these operations were exempt from the major source surface coating NESHAP (40 CFR 63 subparts MMMM and PPPP). Application techniques the commenters mentioned include brushes, sponges, rollers, dip tanks, electrodeposition, small touch-up bottles with a brush or other non-atomizing applicators, touch-up markers, marking pens, and application of paper or plastic film (labels, tapes, stickers) that was pre-coated with an adhesive by the manufacturer.

One commenter (0095) recommended that the exclusion in subpart PPPP for "surface coating where plastic is extruded onto plastic or metal parts or products to form a coating" should be added to subpart HHHHHH. Two commenters (0088, 0096) suggested that operations using only powder coating should be excluded. Some commenters (0084, 0118) suggested rule language and definitions to avoid covering non-spray techniques. One (0124) suggested regulatory language clarifying that "miscellaneous surface coating is the spray application of a coating to a substrate of either plastic, metal, or plastic and metal combined."

Some commenters (0063, 0084, 0091, 0095, 0118, 0131, 0138) supported excluding handheld non-refillable aerosol containers. One (0097) questioned why non-refillable aerosol containers are exempt while refillable ones, which they claim have less HAP, are covered by the rule. Another (0094) suggested refillable aerosol containers be exempt.

Some (0063, 0064, 0084, 0089, 0124, 0147) suggested clarification of whether spray or non-spray application of sealers, caulks and adhesives were covered, and recommended these materials be excluded. One (0084) indicated that these materials are not atomized. Another (0064) said they have large particle sizes so settle out quickly and are not emitted from the source so the proposed controls would be costly with little environmental benefit. Another (0063) said adhesives and caulks are often applied at marinas to repair boats and a spray booth is not available or practical. One (0089) said it wouldn't be feasible for a vehicle production line to enclose all adhesive spray operations.

Some commenters (0063, 0091, 0138, 0124) suggested clarification or exclusion of one or more other operations including: spray application of temporary coatings that cannot take place within a booth or structure, such as deicing of airplanes; lubricants, cleaners, or other surface preparation agents not intended to impart a permanent coating on equipment or parts; cultured marble manufacturing or other operations where a gel is sprayed on a metal or plastic mold prior to processing (these coatings do not contain heavy metals); and painting of boats or ships at marinas and boatyards that cannot be repaired within a structure.

Two commenters (0059, 0100) indicated that thermal spray coating, where a molten or semi-molten solid is sprayed onto a substrate and forms a bond upon contact, should be excluded. They argue that this type of operation is not mentioned in the docket, it is an environmentally preferred option for chemical plating operations, emission rates are low, and the proposed control measures (e.g., HVLP guns) cannot be applied to this type of coating.

One commenter (0079) recommended stencil ink surface coating of miscellaneous metal parts should be exempt from the rule. The commenter's facility already has a federally enforceable permit limit on emissions from this activity as part of their area source designation under subpart MMMM.

Other commenters (0070, 0071, 0083, 0084, 0088, 0091, 0093, 0104, 0111, 0124, 0138) noted that the proposed rule could be interpreted to apply to the surface coating of buildings and other stationary structures, such a bridges, water towers, and stationary equipment at manufacturing and processing facilities (e.g., structures, catwalks, handrails, drill rigs, tanks, process equipment). Some added that this interpretation would result in a large number of unintended sources being covered by the rule, or pointed out that such structures cannot be moved into a booth for painting. Several commenters (0063, 0076, 0083, 0084, 0088, 0090, 0091, 0093, 0094, 0095, 0097, 0104, 0108, 0111, 0117, 0118, 0138, 0145, 0147, 0149) recommended that the rule include an exemption for facility maintenance surface coating, as is found in the major source surface coating rules. One commenter (0091) suggested wording for the facility maintenance exemption that would allow for the initial coating of structures and process equipment during its construction as well as subsequent recoating; other commenters (0093, 0111, 0138) said they supported this commenter or that coating during facility equipment construction should be excluded. Some commenters (0090, 0091, 0093, 0111, 0138) suggested that one way to exclude maintenance-type coating and incidental coating would be to cover only surface coating that is an integral part of a product process that is the "principle activity" of the source. Some commenters (0091, 0093, 0111) also suggested similar language for paint stripping. One commenter (0138) suggested that facility maintenance and other exclusion language be moved to §63.11170 to make it clear that they are not included in the source category or the affected source definition.

Several commenters (0094, 0095, 0096, 0118, 0111. 0145) recommended an exclusion for research and development activities, as is found in the major source surface coating rules. Another commenter (0144) added that quality control activities should also be exempt since these are often of the same scale as research and development activities and are conducted at coating manufacturing facilities that do not produce surface coated parts for sale.

Some commenters (0074, 0090, 0151) noted that it may be impractical to perform surface coating of large pieces of mobile equipment, such as some types of mining and farm equipment, in a spray booth or similar enclosure. One commenter (0151) added that surface coating of farm

equipment is an infrequent activity and is generally limited to maintenance coating, rather than complete refinishing. The commenters suggested an exemption for these types of equipment that are generally coated in the field since it is not practical to move them to a dedicated facility for surface coating.

Response: The EPA agrees with the commenters that the rule should only apply to surface coating on plastic and metal substrates and language has been added to clarify that the standards do not apply to other substrates, such as wood, leather, fabric, rubber, masonry, ceramics, concrete, or stone. Spray coating of these other substrates was not considered in the inventory on which the surface coating source category listing was based.

The rule has also been revised to specifically exclude surface coating that meets the definitions of "facility maintenance", "research and laboratory activities", and "quality control activities" in §63.11180. The EPA believes that it is more definitive to exclude certain surface coating and paint stripping operations through this approach than to exclude these operations if they are not part of the "principal activity" of a source. The latter approach would require each source and the implementing agency to determine and agree on the "principal activity" of a source in determining whether certain operations are exempt. The approach in the final rule defines more specifically which operations are exempt and defines the scope of those operations.

Paint stripping and surface coating associated with research and laboratory activities and quality control activities will not be subject to the standards as long as the items that are the subject of the surface coating or paint stripping are not products for commerce or for a function outside the facility, and do not leave the facility. For example, surface coating of test coupons in the manufacture of a coating to verify the final color of the coating is a quality control activity that is exempt from the rule because the test coupons are not products for commerce and are not intended to leave the facility. However, surface coating that is done to correct a defect or repair damage on a product that was detected as part of a final quality control check before the product leaves the factory is potentially subject to the rule.

"Facility maintenance" is defined to include architectural surface coating activities on stationary structures and process equipment. It is also defined to include the surface coating of mobile equipment in the field, such as farming or mining equipment, or mobile equipment coated at a site where it is used, such as a fork truck coated at a manufacturing facility. The surface coating of stationary structures in the field was not intended to be part of the miscellaneous surface coating source category and was not included in EPA's analysis in the development of

the proposed rule. Similarly, the surface coating of process equipment including, for example, farming and mining equipment that is coated in the field, was also not intended to be part of the source category and was not included in EPA's analyses.

The definition of facility maintenance specifically excludes surface coating of motor vehicles, mobile equipment, or other items that routinely leave and return to the facility, such as delivery trucks, rental equipment, or containers, such as gas canisters, used to transport or deliver products to customers. The paint stripping and surface coating of these latter items that routinely leave and return to the facility are subject to the standards for surface coating operations. Facility maintenance is limited to the paint stripping and surface coating of the infrastructure or process equipment of the facility. Items that routinely leave and return to a facility are not considered part of the facility's infrastructure or process equipment.

The final rule includes definitions of "coating" and "spray-applied surface coating operation" that include lists of materials and activities that are not subject to the final standards for either motor vehicle and mobile equipment surface coating, or for miscellaneous surface coating operations.

The definition of "coating" excludes the following materials because they either do not contain the target HAP, they are not spray-applied, or, if they are spray-applied, they are applied in larger particles that settle near the source and are not emitted and are not sources of the target HAP for which the surface coating categories were listed:

- Decorative, protective, or functional materials that consist only of protective oils for metal, acids, bases, or any combination of these substances.
- Paper film or plastic film that may be pre-coated with an adhesive by the film manufacturer.
- Adhesives, sealants, maskants, or caulking materials.
- Temporary protective coatings, lubricants, or surface preparation materials.

The definition of "coating" also excludes in-mold coatings, typically gel coatings, that are spray-applied in the manufacture of reinforced plastic composite parts. Gel coats are part of the fabrication process for reinforced plastic composites, and were considered in separate processes when the EPA developed the inventory which served as the basis for the source category listing.

The definition of "spray-applied coating operations" excludes several operations that were not considered part of the inventory that was the basis for the source category listing. These excluded operations are not subject to the rule. As described earlier in this section, coatings applied from a spray gun or air brush with a paint cup capacity that is equal to or less

than 3.0 fluid ounces (89 cubic centimeters) are not included because they are primarily used for touch up and repair operations.

Surface coating application using powder coating or non-atomizing application technology, including, for example, paint brushes, rollers, hand wiping, flow coating, dip coating, electrodeposition coating, web coating, or coil coating are not included because they do not atomize coating, so they are not sources of the target HAP emissions from the spray application of coating.

Coating application with handheld, non-refillable aerosol containers, touch-up markers, and marking pens are not included. Touch-up markers and marking pens are non-atomizing and hold only a small amount of coating. Non-refillable aerosol cans are only used for small touch up and repair coating, or where not enough coating is needed to justify a spray coating operation. Since they are purchased as a self-contained unit (coating and propellant in one), and are intended for basically a single use, they are considered a separate type of source compared to a coating operation involving a spray gun that is refilled and used for multiple jobs to apply relatively large volumes of coating. In addition, the original inventory focused on the commercial and industrial users of coatings and collected information on these users that were known to States and EPA through various data sources that did not encompass these types of non-refillable aerosol containers. Refillable aerosol spray units are not exempt since these do not meet the same exemption criteria as the non-refillable units and could be used in a commercial setting in much the same way as a conventional compressed-air spray gun.

The definition of spray-applied surface coating operation does not include thermal spray operations (also known as metallizing, flame spray, plasma arc spray, and electric arc spray, among other names). In these operations, solid metallic or non-metallic material is heated to a molten or semi-molten state and propelled to the work piece or substrate by compressed air or other gas, where a bond is produced upon impact. These are inorganic coatings (conductive metals) that were not considered part of the source category. Although they are metals (usually zinc or aluminum), they do not contain the target HAP of concern for which the miscellaneous surface coating category was listed. In addition, the metal particles created are larger than those created in spraying liquid organic coatings and are less likely to be emitted.

Stencil coating operations for the purposes of marking parts or products are not specifically exempt from the rule, but surface coating using spray guns with a cup capacity of 3.0

fluid ounces (89 cc) or less is exempt. This is the capacity of the largest paint cup that the commenter (0079) indicated is used for stencil marking at their facility.

Comment: One commenter (0135) asked that the applicability be revised to specifically exclude surface coating operations on space vehicles so as to parallel the applicability of subpart GG, the major source NESHAP for Aerospace Manufacturing and Rework Facilities.

Response: The EPA agrees with the commenter and has revised §63.11170 to specifically exclude surface coating on space vehicles from the standards for miscellaneous surface coating in the final rule. However, paint stripping operations on space vehicles using MeCl would still be subject to the standards in the final rule. Paint stripping on space vehicles is regulated at major sources by subpart GG.

Comment: Some commenters (0105, 0119) said that EPA should provide a descriptive definition of what is meant by miscellaneous surface coating operations or otherwise clarify what is meant by the term. One (0105) asked if all operations with paint booths are included. Another (0069) said it appears that any facility that performs liquid finishing and is a minor source will be subject to the rules. Another (0119) stated that many auto refinish coatings are also used on miscellaneous parts and products at auto refinish shops and at other surface coating operations, so the rule should clarify which operations are covered by the term miscellaneous surface coating. One commenter (0092) said that small composites fabricators, which often have only one or two employees, appear to be the exclusive target of the proposed rules.

One commenter (0124) believed that EPA has switched from SIC to NAICS codes for defining the area source categories and in doing that has included some unintended sources. The commenter (0124) asked if EPA staff have collected information from such sources to evaluate the small business impact on the additional surface coating operations. Another commenter (0123) said the rule is too broad as defined by the extensive list of NAICS in the preamble.

One commenter (0119) said the rule should clarify whether the NAICS list in the preamble is for paint stripping operations only, or whether it is for surface coating operations as well. The commenter (0119) noted that the Urban Air Strategy docket seemed to cover the vast majority of commercial coating operations under the broad definition of autobody refinishing paint shops.

One commenter (0083) stated that the aerospace industry was not included in the list of area source categories; therefore, surface coating of aerospace related parts and products should

be excluded from the rule, including the collection of items that constitute the affected source listed in §63.11171(b)(1) through (6) in the proposed rule associated with those operations.

Another commenter (0063) said that area source boat builders should be exempt from this rule. The commenter (0063) stated that major source boat manufacturers are exempt from subpart PPPP, and that small business, area source boat builders should not be subject to work practice and reporting requirements that do not apply to major sources.

Response: In developing the area source category list, the EPA analyzed emissions data from a variety of industrial categories that performed surface coating and determined that these miscellaneous surface coating operations were sources of the target HAP. The category was originally called plastic parts surface coating, but actually included industrial categories that performed surface coating on both metal and plastic substrates for a wide variety of parts and products. In order to more accurately reflect the scope of the proposed and final rule, these surface coating operations are referred to as miscellaneous surface coating operations, rather than plastic part surface coating operations. Since aerospace surface coating operations are potential sources of these target HAP emissions, such as the use of chromated primers for corrosion prevention on aircraft, aerospace surface coating operations have not been excluded from the final rule.

Area source boat manufacturers have also not been excluded from the final rule since these surface coating operations are potential sources of the target HAP. Although the commenter (0063) is correct that surface coating operations at major source boat manufacturers were not regulated by subpart PPPP, surface coating at major source aluminum boat manufacturers were regulated by 40 CFR 63, subpart VVVV. However the major source rule for a particular type of source does not necessarily establish a precedent for the area source rule for the same type of sources. The major source standards for boat manufacturing in subpart VVVV were developed under separate section 112 requirements for major sources, and as such are not relevant to the question of whether heavy metal emissions from area sources should be regulated.

It should also be noted that the table of NAICS codes in the preamble to the proposed and final rules is for informational purposes only and is not intended to be exhaustive. It provides only a guide for readers regarding entities likely to be regulated by the rule and is not part of the rule. Many types of entities that perform stripping and/or coating that are not listed in this table would be potentially affected by the rule. Additionally, some entities that are classified under the NAICS codes in the table may not be subject if they are not performing the operations

described in the applicability criteria in §§63.11169 and 63.11170 of the rule. To determine whether your facility, company, business, organization, etc., is subject to this action, you should examine the applicability criteria in §§63.11169 and 63.11170 of the rule.

Comment: One commenter (0079) suggested that automated spray coating operations utilizing completely enclosed spray booths with overspray filters (minimum 98% efficiency), be exempt from the proposed rule.

Response: The EPA agrees that automated spray coating operations should not be subject to the miscellaneous surface coating rule. The intended source category includes only those surface coating operations that involve hand-held spray guns. Automated and robotic operations are typically performed in a booth, are part of a production line operation with similar, if not identical, parts, and the spray operations have been optimized to reduce coating overspray and coating consumption. Therefore, no further emission reductions can be achieved compared to those for surface coating operations using hand-held spray guns.

Comment: One commenter (0074) concurred that it is appropriate to combine all three source categories in a single rule. However another (0114) suggested decoupling the rules. This commenter (0114) said that combining three source categories that affect different NAICS codes and have dis-similar sources and emission processes is not efficient and could make tracking sources and evaluating compliance more difficult.

Response: In developing the proposed and final rule, we fully analyzed the three listed source categories and found that it was both reasonable and technically feasible to regulate emissions from these three source categories by a single set of emission standards. The processes, emission points, emission characteristics, and emission controls for miscellaneous surface coating and motor vehicle and mobile equipment surface coating are similar enough such that they are subject to nearly the same requirements. Additionally, paint stripping is often performed as part of the surface preparation for many types of surface coating regulated by these standards. By regulating all three within the scope of a single set of standards, it reduces the burden of complying with multiple standards on the sources performing both the paint stripping and subsequent coating. This single set of emission standards that addresses all three categories also minimizes the cost of permitting, and enforcing the standards.

Although sources are included under different NAICS codes, the NAICS code for a source does not affect that applicability of the final rule. The NAICS codes are presented in the preamble to the proposed and final rule only for information purposes on the types of entities that

may be affected. Sources that meet the applicability criteria in the rule may be found under other NAICS codes that were not listed, and there may be sources that are under the listed NAICS codes that do not meet the applicability criteria in the rule and are not subject. Therefore, it is important for the owner or operator of each source to read the applicability criteria in the rule to see if they are affected.

Comment: One commenter (0097) requested clarification on the "once in, always in" policy with respect to this rule. In particular, the commenter (0097) asks if sources that are already subject to subpart MMMM also need to meet the proposed standards in subpart HHHHHH.

One commenter (0079) said that their facility has been established as an area source with respect to subpart MMMM through a federally enforceable permit limit that restricts their potential to emit to less than the major source HAP emission threshold. This commenter performs paint stripping using MeCl and surface coating of miscellaneous metal parts and must stay below their site-specific limit for both. The commenter believes both their paint stripping and coating operations should be exempt from this rule because of this federally enforceable limit. The commenter points out that the proposed area source rule does not apply to any source operations that are specifically covered by another area source NESHAP and believes this provision could exempt their facility from the proposed rule.

One commenter (0123) says this proposed rule will apply to many sources that were major at one time and made significant efforts to reduce emissions to achieve area source status. The commenter (0123) is concerned that the proposed rule will subject such sources to additional, more stringent requirements that major sources do not have to meet, and anticipates there will be little environmental benefit.

One commenter (0149) asked the EPA to clarify that a source that meets the applicability criteria of another NESHAP is not subject to the area source NESHAP. The commenter cited, as an example, a source that is now an area source, based on actual emissions, because they have applied MACT controls as required by a major source NESHAP with which they are still complying. The commenters asked EPA to clarify that operations that may have been exempt from the major source NESHAP would not now be covered by the area source NESHAP.

One commenter (0084) agreed with EPA's determination that the proposed area source rules should not apply to major sources.

Response: The final standards apply to miscellaneous surface coating operations that are area sources. An area source is defined as any stationary source that is not a major source. A major source is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAP. Area sources include those sources that prior to the first substantive compliance date of an applicable major source NESHAP have established limits on their potential to emit HAP to below the major source emission thresholds in section 112. By taking such PTE limits prior to the first substantive compliance date of the applicable major source NESHAP, the source avoids having to comply with that NESHAP. That said, such source would qualify as an area source and if it meets the applicability criteria of this subpart HHHHHH, it is subject to this NESHAP.

As for a major source that failed to take a PTE limit limiting its HAP emissions to below the major source thresholds by the first substantive compliance date of the applicable MACT standard, that source, consistent with our current once-in-always-in policy, would remain subject to the major source NESHAP. See "Potential to Emit for MACT Standards–Guidance on Timing Issues," from John Seitz, Director, Office of Air Quality Planning and Standards, to EPA Regional Air Division Directors (May 16, 1995). Because such a source must comply with the major source rule, it would not be subject to the requirements of subpart HHHHHH, which is an area source standard.

Comment: One commenter (0097) pointed out that the preamble says this rule will not apply to operations covered under other area source rule. The commenter (0097) stated that this exemption needs to be included in the rule, and suggests that the rule should also specify that if more industry-specific NESHAPs are promulgated in the future then the more specific NESHAP will apply in place of this rule.

Response: The commenter is correct that this NESHAP will not apply to operations covered under other rules affecting area sources. One of these rules that will regulate surface coating operations at DoD, NASA, and NNSA installations is already under development and the final rule excludes surface coating operations at these installations. However, the applicability of other future area source surface coating NESHAP has not yet been fully and specifically determined. The final rule includes §63.11169(d)(6) that states that subpart HHHHHH does not apply to surface coating or paint stripping that is specifically covered under another area source

NESHAP. If, at a later time, other surface coating or paint stripping area source NESHAP are developed that affect sources potentially covered by this NESHAP and those sources meet the applicability criteria of those other NESHAP, then they would be subject to that other NESHAP. If there is potential overlap between a future rule and subpart HHHHHH, then that overlap can be resolved through the rule language for that NESHAP and amendments to the language for this NESHAP. Until that time, sources that meet the applicability criteria of this NESHAP will be subject to the requirements of this NESHAP.

Comment: Two commenters (0057, 0101) said consideration should be given to grandfathering small, existing auto body shops.

Response: The final rule will apply to all new and existing motor vehicle and mobile equipment surface coating operations, except those that were not in the listed source category , such as hobbyists and facility maintenance. Both new and existing sources will also be subject to the same requirements. Existing sources, however will have three years from the date the final rule is published to achieve compliance.

Comment: One commenter (0119) suggested that the paperwork, training, and spray gun requirements need to better address training centers and R&D centers. The spray booth requirements are not an issue since nearly all training is done in spray booths. However, not all training is done with HVLP spray guns or their equivalent. For example, non-HVLP spray guns may be used in training for field applied coatings. The rule should also clarify whether researchers at R&D centers need to be certified that they have completed training. The paperwork required by the rule may also not be applicable to sources that are not on-going commercial facilities.

Response: The EPA agrees with the commenter on addressing training centers and R&D centers. As explained in the responses to previous comments in this section, R&D activities do not have to comply with the rule requirements, so researchers at these centers do not need to complete training or any paperwork. However, training centers are still subject to the rule requirements, but do not have to meet the requirement to use HVLP or equivalent spray guns, since certain types of training may involve otherwise non-compliant spray guns.

Comment: One commenter (0131) suggested that, for enforceability, the regulation should be clear that if spray guns are observed at a facility, the facility is subject to the regulation even if exempt equipment is also present.

Response: The purpose of the final NESHAP is to limit emissions of the target HAP. The EPA agrees with many commenters that miscellaneous surface coating sources that are not sources of the target HAP should not be subject to the rule. Therefore, an applicability determination based solely on the presence of spray equipment would be inconsistent with this decision to regulate only miscellaneous surface coating sources that are sources of the target HAP emissions. If EPA has information indicating that a facility that is spray applying products containing the target HAP is subject to this rule and is not complying with the rule's requirements, EPA can take appropriate enforcement action.

Comment: One commenter (0104) suggested that the rule should define major source for oil and natural gas production field facilities and for natural gas transmission and storage facilities consistent with CAA section 112(n)(4).

Response: The final rule does not include a definition of major source for the facilities recommended by the commenter because 112(n) (4) is not relevant to this rulemaking.

Comment: One commenter (0051) suggested that the final rule include the Chemical Abstract Service (CAS) numbers for pollutants that are to be regulated so that searching for additional information can be facilitated.

Response: The final rule has included the CAS number for MeCl (75-09-2) in section 63.11169. CAS numbers were not included for the other target HAP because they are compounds of metals, and would be represented by many different CAS numbers.

4.0 COMPLIANCE DATE

Comment: Several State agency commenters (0088, 0090, 0094, 0117, 0133) requested existing sources be given three years to comply rather than two years. They contend that more time is needed for State and local agencies to identify all subject sources and perform the needed outreach activities, and for the sources to have time to get all of their painters trained and to purchase and install any needed equipment. Sources may be difficult to identify and unfamiliarity with the rules is likely to be widespread because the sources are small businesses, with frequent employee turnover and changes in ownership. Commenters added that most other air toxics regulations allow existing sources three years to comply and this rule should be consistent to allow time for outreach.

Response: EPA has revised the proposed rule to allow existing sources three years to comply. EPA agrees that the State agencies and other commenters have provided sufficient justification that three years is needed. There is a lack of readily available information to identify all of the thousands of area sources that are subject to the rule. Many of the area sources covered by the rule are small and have not previously been subject to air pollution control rules. Therefore, implementing agencies will need time to widely publicize these rules, develop outreach materials, and perform outreach though a variety of channels in order to inform sources that they are subject to the rule. In addition, many small sources are likely to require assistance in determining whether they are subject to the rule and what activities they will need to undertake to comply. Time is needed for these outreach and assistance efforts. In addition, sources and painters will need sufficient time to locate training courses, register for training, and achieve painter certification, especially because there will be a high demand for training before the compliance date. Section 112 of the CAA allows up to three years for existing sources to comply, and given the characteristics of the source category, three years is a reasonable compliance time for this rule.

5.0 MANAGEMENT PRACTICES FOR PAINT STRIPPING OPERATIONS

Comments were received directly related to only the paint stripping portion of the proposed rule from 10 commenters. Two of these commenters were from industries (0066 and 0108), three were from State or national technical/trade organizations (0087, 0088 and 0124), and five were State environmental agencies (0077, 0086, 0094, 0114, and 0123).

While most supported some aspects of the proposed rule as it pertained to paint stripping, all but one commenter (0086) commented that areas of the proposed rule were too stringent and would create undue burdens on both the regulated operations and the permitting agencies. Overall, the majority of comments pertained to the choice of management practices as GACT to reduce methylene chloride (MeCl) emissions. While several commenters approved of it, others commented on details in the rule as proposed that they felt should be changed. Other comments included the selection of 150 gallons per year of MeCl containing stripper usage as a threshold for the requirement of a MeCl Minimization Plan, proposed exemptions for low users or low MeCl formulations, and the burdens of the proposed rule with respect to reporting requirements and compliance. Following is a summary of these specific comments and responses.

Comment: Several commenters submitted ideas related to the amount of MeCl in MeCl-containing paint stripping formulations. A State commenter (0114) noted that due to the size and inexperience of the population of businesses affected by the regulation, focus on work practice procedures alone is not sufficient to achieve effective control of MeCl. This commenter recommended a control program that also focuses on MeCl limits in paint stripping formulations.

Alternatively, two commenters provided positive feedback on the proposal of Generally Available Management Practices as GACT. A State commenter (0094) agreed that development of a MeCl minimization plan is a good idea. They added that the plan would make sources more aware of the impacts of certain practices and require them to develop alternate ways to perform paint stripping operations without the use of MeCl. A trade association commenter (0087) supported the Agency's focus on management practices to reduce emissions of MeCl from paint

stripping operations rather than on what they termed inappropriate technology requirements or alternative stripping techniques.

Response: As emission reduction technologies for the paint stripping industry were evaluated, EPA recognized the wide variety of situations where paint stripping occurs. Even when paint stripping occurs on the same type of substrate, there are many different variables, including the complexity of the part, that necessitate the use of different, multiple and sometimes specialized paint stripping techniques. For that reason, EPA felt that it was impractical to attempt to establish emission or formulation limits, or to require specific technologies, for every situation.

Therefore, EPA elected to establish management practices that require owners and operators of establishments that perform paint stripping to seriously consider alternatives to MeCl-based paint strippers. In some situations, suitable alternatives may not be available. In other situations, particularly for small businesses, technologies that are feasible from a technical standpoint may not be economically feasible. However, in many cases the potential economic benefit some establishments realize when they adopt alternative stripping techniques for specific stripping tasks will further encourage them to reevaluate the necessity of MeCl-based paint strippers. EPA believes that given all the variables associated with each paint stripping task that it was unrealistic to establish specific limits for each and every paint stripping operation. Furthermore, like many commenters, EPA believed that it was most appropriate to place the decisions of the feasibility of alternatives to MeCl strippers at the feet of those that know their business best. Therefore, the final rule retains the proposed requirements that owners and operators institute management practices to reduce MeCl emissions from paint stripping which we believe reflects GACT for this source category.

Comment: There were several comments received that discussed the need for MeCl for stripping and expressed doubt at the plausibility of alternative technologies. A trade association commenter (0087) remarked that in many cases, products containing MeCl are the only effective means of removing certain finishes, such as polyurethanes and most paints, for commercial operations. One State commenter (0077) stated that, in the department's experience, most chemical paint stripping operations were dedicated to stripping paint from wooden furniture. They noted that the proposed management practice of recoating without stripping or substituting alternative stripping technologies was not a possibility for painted wood. An industry commenter (0066), a true "Mom and Pop" business dedicated to restoring furniture, commented

that for furniture restoration shops to reduce their MeCl use, there would have to be better alternative chemical strippers available. MeCl strippers are not flammable, but the current alternative chemical strippers are highly flammable and explosive.

In addition, the current alternative chemical strippers cost two to three times those containing MeCl, and take two to five hours to work versus 15 to 20 minutes for those containing MeCl. Another industry commenter (0087) supported the Agency's proposal to allow the facility to determine whether a MeCl-based product for the particular paint stripping task. The commenter quotes the preamble that the evaluation criteria in the management plan would involve "only using MeCl-containing paint stripper when an alternative on-site stripper method or material is incapable of accomplishing the work as determined by the operator."

Response: The rule does not limit or ban the use of MeCl-based paint strippers. Instead, the rule encourages operations to think of ideas specific to their operation where alternative stripping technologies can be employed. The facility decides when they can most effectively substitute alternative technologies for MeCl-containing stripper. In some cases a facility may find that MeCl strippers are currently the most effective choice; however, in other cases these strippers may currently be used as a matter of routine and suitable alternatives can be used instead.

The basis of the rule is to consider, and when possible, to use alternative stripping techniques. There are situations where alternative stripping methods can be employed successfully. Examples of alternative techniques for wood include sanding off the top layers of paint and using a smaller amount of MeCl-containing stripper to remove the remaining coating. Another would be to sand the flat surfaces and use the MeCl-containing stripper to remove the paint from only certain areas such as carvings or joinings. Finally, EPA looks forward to the development of safer, less expensive alternative chemical strippers that do not contain MeCl or other HAP.

In addition, EPA points out that the assumptions made in the impacts analysis regarding the costs of the switching to alternative chemical strippers are consistent with the information provided by the commenter that alternative chemical strippers are two to three times as expensive as MeCl strippers. The EPA used a cost for MeCl strippers of just over $10 per gallon and a cost for alternative chemical strippers of $32 per gallon.

Comment: An industry commenter (0066) dedicated to restoring furniture noted that they seldom strip paint. The majority of the furniture they strip is coated with shellac, varnish, or polyurethane.

Response: Paint stripping applies to the removal of all types of coatings using MeCl containing chemical strippers. Thus, in addition to paint, the rule also applies to other coatings such as shellac, varnish, polyurethane, and other coatings.

Comment: One commenter (0114) noted that there were no provisions to exempt those businesses/sources that use non-MeCl strippers. A State commenter (0123) recommended exemptions for facilities using HAP-free strippers. A second State commenter (0086) had concerns about the MeCl-containing paint stripping section of the proposed rule and recommended emphasizing the consideration of paint stripping techniques with reduced or minimal HAP emissions.

Response: Only area source facilities that use MeCl-based strippers are subject to the rule. Therefore, sources that use non-MeCl or HAP-free strippers are not subject to the rule, provided that they do not also use MeCl strippers. While EPA agrees that HAP-free paint strippers should be emphasized, the paint stripping area source category was listed for its emissions of MeCl, and so this HAP is emphasized in the NESHAP. Note that there are many HAP-free nonchemical paint stripping methods that may be substituted for MeCl containing paint strippers in certain types of paint stripping operations.

Comment: One commenter (0087) noted that while basing the threshold level that triggers development of a written MeCl minimization plan on the total quantity of stripper used may simplify compliance, it does not consider the MeCl content of the stripper formulation, and thus may create a disincentive for facilities to explore formulations with lower MeCl content. They stated that, although the MeCl-based products commonly used in paint stripping operations contain 75 to 90 percent methylene chloride, products containing 40 to 50 percent of the solvent are also available. However, they pointed out that facilities may need to use more stripper to compensate for the lower methylene chloride content, resulting in the need for higher volumes. The commenter indicated that they did not believe that specifying a use threshold based on the MeCl content was appropriate. They indicated that a higher gallon-per-year limit would allow many paint stripping firms to explore the applicability of lower MeCl-content formulations to their operations. The commenter stated that discussions with member companies that formulate MeCl-based strippers for commercial operations indicated that a threshold of 500 to 600 gallons

also would better distinguish between operations that perform paint stripping as a regular part of their business and those that conduct stripping on an as-needed (incidental) basis.

Another commenter (0066) said that to be cost effective, shops buy MeCl based strippers in 55 gallon drums, which makes the 150 gallon per year minimum unrealistic. They suggested that a 220 gallon per year threshold would be a more realistic number and would reflect a factor of cost-effective bulk purchases.

Response: As discussed in the proposal preamble (72 FR 52966), a subcategory of paint strippers was created to distinguish those sources that were assumed to have alternative on site paint stripping technologies available. The threshold level to define this subcategory was proposed as a volume of MeCl-based stripper used (150 gallons per year). Given the large number of small businesses that will be impacted by this rule, we thought that this volume-based threshold would lessen the burden when compared with a threshold based on the mass of MeCl in the stripper. However, we do recognize the relevant points made by the commenter. If owners and operators performing paint stripping cannot find non-MeCl alternatives, we certainly want to encourage them to consider strippers with lower MeCl contents. We understand that basing this threshold on volume may provide a disincentive to the use of these low-MeCl content strippers.

Like the commenter, we do not believe that specifying a use threshold based on the MeCl content is appropriate. However, we believe that simply raising the volume-based threshold would remove all incentive to use lower MeCl content strippers, rather than encourage their usage. Increasing the volume-based threshold from the proposed 150 gallons per year to the suggested 500 to 600 gallons per year would increase the emissions of facilities required to develop a written MeCl minimization plan three or four-fold, assuming that they utilize a stripper with the same MeCl content. Further, sources using these levels of MeCl strippers could emit as much as three to four tons of MeCl if using high-MeCl content strippers. We do not believe it is unreasonable to require sources with the potential to emit MeCl at these levels to develop a formal plan for reducing these emissions and evaluating the feasibility of alternative paint stripping technology.

We considered including both a volume-based and mass-based threshold in the final rule. However, the complexity of such provisions defeated the purpose of using a simple volume-based threshold in the first place. Therefore, in the final rule, the threshold that defines the subcategory of paint strippers that is required to develop a written MeCl minimization plan is on

a mass basis. Specifically, the final rule requires sources that use more than one ton per year of MeCl in paint strippers to develop a written MeCl minimization plant to implement the management practices in the rule.

As noted in the proposal preamble, a major criterion in the selection of the proposed 150 gallons per year threshold was our model plant impacts analysis. The 150 gallons per year level was selected for the model plant representing stripping operations that use between 100 and 250 gallons of MeCl paint strippers. Facilities represented by this model plant would be using around one ton of MeCl per year for their paint stripping operations, depending on the density of the stripper and the percent of MeCl in the stripper (assuming the higher range of MeCl contents confirmed by the commenter). Therefore, any level selected within this range would still be consistent with our proposed threshold.

In addition to being consistent with our proposed intention, the one ton MeCl per year threshold is also relatively compatible with the requested volume-based levels requested by the commenter, assuming that lower-content MeCl strippers are used. For example, between 450 and 500 gallons of paint stripper containing 40 percent MeCl could be used and still remain below the one ton per year MeCl threshold.

Finally, while we appreciate the practicality of a threshold based on the purchase of 55 gallon drums, as discussed above, we have concluded that any volume-based threshold is not ideal. If owners and operators of paint stripping operations wish to remain below the threshold and avoid the requirement to develop a written MeCl minimization plan, we would suggest that they calculate the number of 55-gallon drums of stripper that they can utilize and still remain below the one ton level and plan accordingly.

Comment: In the proposed NESHAP, there is a requirement for a facility to prepare a MeCl minimization plan if they use more than 150 gallons per year of paint stripper that contains MeCl. Three commenters suggested that the usage level threshold where a minimization plan is required should be increased. One commenter (0066) said that to be cost effective, shops buy MeCl based strippers in 55 gallon drums, which makes the 150 gallon per year minimum unrealistic. They suggested that a 220 gallon per year threshold would be a more realistic number.

A trade association commenter (0087) suggested that a threshold level of 500 to 600 gallons per year would create less of a burden on the affected sources and permit agencies while still protecting public health. The commenters stated that discussions with their member

companies who formulate MeCl based strippers for commercial operations that perform paint stripping on a regular basis also indicated that a threshold level of 500 to 600 gallons per year would distinguish between operations that that perform paint stripping as a regular part of their business and those that conduct stripping on an as-needed (incidental) basis. The trade association comments were seconded by an industry commenter (0108).

Response: As discussed in the proposal preamble (72 FR 52966), a subcategory of paint strippers was created to distinguish those sources that were assumed to have alternative on-site paint stripping technologies available. The threshold level to define this subcategory was proposed as 150 gallons of MeCl-based stripper used per year. Some of the commenters suggested changing this threshold to 500 to 600 gallons per year. Sources using these levels of MeCl strippers would emit between 2 and 3 tons of MeCl per year. EPA does not believe it is unreasonable to require sources using this much MeCl stripper and emitting these levels of MeCl to develop a formal plan to attempt to reduce these emissions and did not incorporate these suggestions into the final rule.

Comment: Two commenters (0087, 0108), stated that facilities have already made the determination whether a MeCl-based stripper is necessary for a particular paint stripping task. Further, existing workplace exposure standards for MeCl promulgated by the Occupational Safety and Health Administration (OSHA) provide sufficient incentives for sources to reduce their use of MeCl-based strippers when feasible and economical. They agree that the management plan can help facilitate more effective use of MeCl-based strippers, but do not believe that sources will be able to find suitable alternatives as a result of developing the plan.

Response: Some facilities may have already carefully examined whether a MeCl-based stripper is necessary for each application. Some sources may not be able to find additional suitable alternatives as a result of developing a written plan; however other sources may not have examined their MeCl-based stripper usage as carefully, and by requiring this careful examination as GACT could result in a reduction of MeCl usage.

The use of MeCl in many industries did decrease or was eliminated after OSHA tightened their workplace exposure standards. As OSHA's standards resulted in greater protection of workers, EPA is confident that this final rule will result in lower MeCl exposures for the general public. Furthermore, EPA is required by Section 112(c)(3) of the CAA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 Urban HAP are subject to regulation. This regulation is required

because the paint stripping area source category was listed as one of the more significant emitters of MeCl.

Comment: A State commenter (0094) felt that it would be more suitable to keep the MeCl Minimization Plan on site rather than submitting it to the State and EPA. The commenter stated that they would not have the time or resources necessary to review the plans, and that they were unsure what kind of review and approval processes should be used.

Response: The development and implementation of the MeCl minimization plan is designed to reduce MeCl usage and emissions at the facility level. In the proposed rule, the requirement to submit the MeCl minimization plan to a regulating authority was included to ensure that there would be oversight of facilities' plans. However, EPA understands that the value of submitting plans to the State or EPA would likely not offset the burden of time and resources for submittal and review. As a result, EPA is not requiring facilities to submit their plans to permitting authorities and the final rule was revised to reflect this change. The final rule requires facilities to keep plans onsite and to include a statement in the notification of compliance that they have developed their plans and met the requirements associated with the MeCl minimization plan. The final rule also included a requirement for facilities to review their plans annually and to make changes as appropriate based on experiences during the previous year. Documentation of this review will also replace the proposed rule requirement to submit annual compliance reports to the regulating authority.

Comment: A State commenter (0094) indicated that posting a placard/sign outlining the evaluation criteria and management techniques seemed cumbersome and could result in one with too much information. Unsure of EPA's intent, the commenter suggested that a sign simply states that the business uses MeCl or, if the goal is to raise employee awareness, a yearly training or review session on the minimization plan could be required and documented.

Response: EPA agrees that outlining a lengthy minimization plan on a sign could result in one with too much information, and the result of the requirement for the placard/sign would not be positive. EPA believes that a simple sign would more likely lead to reduction in MeCl emissions. The goal of the sign as part of the minimization plan in the rule is to raise employee awareness and consider alternative technologies to MeCl-based strippers. EPA considered requiring training to be held annually; however, concluded that the costs of such required training would be too high a burden on many small businesses. As plans are developed, it is anticipated that the signs will reflect facility-specific reminders that are eye catching and

therefore effective in reducing usage and emissions of MeCl. The final rule requires the facility review their minimization plan annually and maintain onsite documentation of updates to the plan. These updates should include updates to the signs that keep them useful as a reminder to consider alternative technologies.

Comment: A Trade Organization (0124) felt the proposed rule was vague on the MeCl Minimization Plan requirements and obligations and proposed that EPA develop an example MeCl minimization plan.

Response: As part of the implementation of the rule, EPA will consider developing an example plan. In the interim, information is available from other sources that affected sources may find helpful. Examples include Canada EPA's information for the reduction of MeCl emissions from paint stripping: *Code of Practice for the Reduction of Dichloromethane Emissions from the Use of Paint Strippers in Commercial Furniture Refinishing and Other Stripping Application* (docket item number EPA-HQ-OAR-2005-0526-0020.2 and available at http://www.ec.gc.ca/CEPARegistry/documents/code/furn_ref/toc.cfm) and information from California (docket item number EPA-HQ-OAR-2005-0526-0046.6 and available at http://www.p2pays.org/ref%5C01/00662.pdf).

Comment: A State commenter (0114) stated that requiring annual written MeCl Minimization Plan certifications is likely to result more in frustration for the regulated entity than contribute to emissions reductions. A Trade Organization (0087) also commented that the proposed requirement for annual compliance reporting is unnecessary and burdensome. The commenter stated that since the proposed standard imposes management practices rather than emissions limits, it is not clear what aspect of their compliance sources would need to report. They suggest that beyond the initial report, the only reporting that should be necessary would be a change in status relative to the threshold level for developing a MeCl Minimization Plan.

Response: Annual MeCl minimization plan certifications were included in the proposed rule to ensure that facilities continue to look for alternatives to using MeCl-based strippers. The goal was to encourage an ongoing effort to reduce usage and emissions of MeCl rather than having a facility develop a plan as a one-time activity. After reviewing the associated comments, EPA concluded the effect on MeCl emissions would be greater if the facility devoted the time to updating and reinforcing the ideas behind their plan rather than submitting paperwork to the permitting authority. In the final rule, EPA revised the requirement for annual written MeCl minimization plan certifications by adding a requirement for facility level review and

updating of the plan. Onsite documentation of this review will also replace the proposed rule requirement to submit annual compliance reports to the permitting authority. EPA believes that devoting effort to using lessons learned in the past year for annual updating of the plan, with onsite recordkeeping, will be more effective in reducing emissions than submitting annual written certifications.

Comment: A commenter (0087) extrapolated information from California, Canada, and other sources to develop an estimate of sources affected by the proposed rule and commented that EPA's estimate of 3,000 sources was an underestimate. Using two methods to extrapolate from estimates of furniture stripping operations using MeCl-based strippers in California, one based on population and the other based on business statistics, they estimated that nationally, approximately 4,000 sources were involved in furniture stripping with MeCl-based strippers. Factoring in autobody shops use of MeCl-based strippers, the number of facilities affected is two to three times EPA's estimate of 3,000 firms. Additionally, a significantly larger number of firms would exceed the proposed 150 gallon threshold. As a result, the total cost of EPA's proposal would be significantly higher than estimated. A second commenter (0108) suggested that EPA should reconsider the data on the number of sources affected by the proposed rule and limit the rule's applicability.

Response: Developing an estimate of the number of affected sources was a difficult portion of the analyses conducted, to arrive at the proposed rule and to estimate its impacts. Unlike source categories with large facilities, emission inventories were not as useful in arriving at an estimate of facility numbers. Further, this source category does not have an industrial trade organization to turn to for further information about the source category.

We appreciate the additional information on number of affected facilities provided by the commenters and considered the impacts of revising the population in the final rule. However, since little documentation was provided in support of the population estimate we have decided not to revise the estimate of sources. Finally, a change in the population totals affects the impacts proportionally and since we received no adverse comments on the assumptions and basis for our proposed impacts, which indicated a cost savings, we have decided not to revise the impacts and just rely on those at proposal as a worst-case analysis.

Comment: An industry commenter (0066) and a trade association commenter (0087) had comments about some of the information discussed in the preamble about wood furniture stripping techniques. The commenters noted that nearly all furniture restoration shops use flow-

over systems for chemical strippers - including those containing MeCl - and not dip tanks as discussed in the preamble. With the flow-over system commenters claim they are only exposing five gallons of MeCl to the environment at any one time. The commenter noted that manufacturers of MeCl-containing strippers already include paraffin in the formulation to help reduce evaporation. The trade organization commenter also noted that the majority of commercial furniture stripping operations do not use dip tanks. Rather, they use flow-over systems or hand stripping. The commenter also noted that while the bulk of sources affected by the proposed rule are involved in commercial furniture stripping, there was minimal information about this source sector in the docket and none of the alternative technologies evaluated in the impact analysis were applicable to furniture stripping.

Response: EPA appreciates the information about how MeCl-containing strippers are used in the furniture stripping industry. EPA also notes that the commenter verified an assumption used in the impacts analysis for the proposed rule; that users of MeCl avoid evaporation because it is lost money.

Wood furniture stripping was considered in developing the rule, as it is part of the listed source category. Many of the materials considered and included in the docket are relevant to paint stripping on multiple substrates including wood. The proposed rule docket contains the following sources of information specific to furniture stripping:

- Current Practices and Processes for Paint Stripping in Professional Furniture Refinishing (EPA-HQ-OAR-2005-0526-0046.7)
- Investigation of Technologies to Reduce Emissions of Methylene Chloride from Furniture Stripping Operations: Final Report (EPA-HQ-OAR-2005-0526-0046.10)
- Woodfinisher's Pride: An Alternative to Current Chemical Paint Strippers (EPA-HQ-OAR-2005-0526-46.14)
- AQMD Furniture Stripping Working Group Meeting August 21, 2002 (EPA-HQ-OAR-2005-0526-0044.1)
- Code of Practice for the Reduction of Dichloromethane Emissions from the Use of Paint Strippers in Commercial Furniture Refinishing (EPA-HQ-OAR-2005-0526-0020.2)
- Baring All, This Old House Magazine (EPA-HQ-OAR-2005-0526-0022.1)
- Meeting Summary - Proposed Rule 1437. Proc. of South Coast Air Quality Management District Furniture Stripping Working Group (EPA-HQ-OAR-2005-0526-0044.2)
- Peel Away Prevails in Safe-Stripper Shootout (EPA-HQ-OAR-2005-0526-0045.6)

The alternative technologies used for cost estimates for the model plants in the impact analysis included mechanical, dry media blasting, and thermal. EPA disagrees that no alternative technologies evaluated are applicable to furniture stripping. Mechanical methods include sanding which is frequently used to remove coatings from furniture. Additionally, thermal paint removal methods include infra-red methods that are also be used to remove coatings from furniture.

Comment: A comment was made by a trade organization (0124) that the proposed rule has not addressed the impact on businesses that might make a switch to mechanical or thermal stripping operations and find themselves affected by State particulate matter or other emissions standards. Possible permitting requirements to modify an operation may also result, which would create a great impact on small businesses in both time and fees.

Response: The basis of the proposed rule is to consider, and when possible use, alternative stripping techniques. The impacts analysis assumed that the facility would switch to increased use of technologies they already have onsite. EPA does not believe that would result in significant permit changes since it would not require that they install new technologies. If an operation finds that the switch to an alternative technology makes an appreciable impact related to State particulate matter or other emissions standards or permitting requirements, the operation can consider this impact together with cost, effectiveness, and/or other measures before deciding to switch to this technology.

6.0 AUTHORITY TO REGULATE MISCELLANEOUS SURFACE COATING OPERATIONS

Comment: One commenter (0092) argued that plastic parts and product surface coating should not be listed as an area source of the specific heavy metals in urban areas. They stated that the major source rule for plastic parts surface coating (40 CFR 63 subpart PPPP) did not regulate heavy metal emissions and did not require the use of spray booths. They commented that heavy metals were not mentioned in the proposed or final major source rule. They contended that the listing of plastic parts and products was not consistent with EPA's stated policy for listing sources of HAP (64 FR 38720, July 19, 1999) and heavy metal HAP (64 FR 38722). They further stated that the analysis in the preamble to the proposed area source rule indicates that plastic part surface coating sources account for only about 700 pounds a year, or between 0.15 percent and 0.33 percent of total area source heavy metal emissions. The commenter requested EPA to change the listing decision and remove plastic parts coating operations from the rule.

Response: The listing and regulation of plastic parts and products (surface coating) for the targeted metal HAP is consistent with CAA requirements. Sections 112(c) and 112(k) of the CAA instruct EPA to identify and list area source categories accounting for at least 90 percent of the emissions of the 30 listed HAP (referred to as "urban HAP") (64 FR 38706, July 19, 1999). One of the listed area source categories is plastic parts and products (surface coatings). The commenter provides no information indicating that this listing was inappropriate.

In the 1999 final urban air toxics strategy notice, we listed 16 area source categories including paint stripping. Each of these categories accounted for at least 15 percent of at least one of the 30 urban HAP. See 64 FR at 38720. But, as indicated in that notice, the initial list of area source categories did not account for 90 percent of several of the HAP, including six metal HAP (64 FR 38722, July 19, 1999). That notice announced EPA's intent to study additional area source categories and complete the list of area source categories by 2003.

In June 2002, we listed several additional area source categories including autobody refinishing (67 FR 43122, June 26, 2002). That listing, however, still did not meet the requirement to list area sources representing 90 percent of the area source emissions of each of the 30 HAP. In the urban air toxics strategy, EPA indicated we would be adding additional area source categories as necessary to meet the 90 percent requirement.

Consequently, in November 2002, we listed 23 additional area source categories including plastic parts and products (surface coating) (67 FR 70428, November 22, 2002). Each of these listed categories contributes some percentage of emissions of one or more of the 30 urban HAP. The plastic parts and products (surface coating) area source category was listed for cadmium, chromium, lead compounds, manganese, and nickel compounds. In order to meet the 90 percent requirement for each of the 30 urban HAP, we had to list many categories that individually contributed only a small percent of the target HAP. The emission inventory that supported the listing of plastic parts and products (surface coating) as an area source category estimated that emissions from this category included the following:

- 14.7 tons per year (tpy) of chromium compounds,
- 18.9 tpy of lead compounds,
- 12.6 tpy of manganese compounds,
- 7.7 tpy of nickel compounds, and
- 0.005 tpy of cadmium compounds.[1]

This history and the CAA requirements for area sources explain why metal HAP are the target of the surface coating portion of this area source rule. We are required during rule development to regulate emissions of the target urban HAP from surface coating area sources. Under section 112(d) area source regulations may be based on generally available control technology (GACT) rather than maximum achievable control technology (MACT), which is required for major sources. In this rule we have established emissions standards that represent GACT for the source categories. The commenter has provided no information questioning the GACT determination in the proposed rule.

[1] 1990 Emissions Inventory Of Forty Potential Section 112(k) Pollutants Supporting Data For EPA's Section 112(K) Regulatory Strategy. Final Report. Distributed by: Emission Factors and Inventory Group (MD-14), Emissions, Monitoring and Analysis Division, U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, and Emission Standards Division (MD-15) U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. May 21, 1999. see Table 6, pp. 6-37, 6-45, 6-80, 6-92, 6-122, and 6-127.

The major source standards for surface coating of plastic parts and products (40 CFR 63, subpart PPPP) and surface coating of miscellaneous metal parts and products (40 CFR 63, subpart MMMM) were developed under separate section 112 requirements for major sources, and as such are not relevant to the question of whether heavy metal emissions from area sources can be regulated, nor to the question of the specific requirements that constitute GACT for area sources (including spray booths).

Finally, the EPA at proposal did not have emissions data for all area source miscellaneous surface coating operations. EPA had data for about 230 miscellaneous surface coating facilities from which we could estimate emissions. However, public comments received from State agencies indicate that the total number of area source miscellaneous surface coating sources could be over 100,000 sources. Therefore, it is likely that the target HAP emissions from these sources are many times higher than estimated from the survey data available at proposal, and are more in line with emissions estimated as part of the area source category listing process for sources of the target HAP emissions.

Comment: One commenter (0144) stated that the rule should not regulate surface coating on metal parts and products as part of the miscellaneous surface coating source category because it was not listed as an area source category. The commenter noted that the category included in the final notice for the list of source categories in November 2002[2] was "plastic parts and products (surface coating)." The commenter also noted that the description of this source category in supporting documents for that listing includes industrial classification codes only for plastic parts and products. However, the commenter notes that the standard industrial classification code for miscellaneous metal surface coating (SIC 3479) was included in the source category description for "autobody refinishing paint shops."

A second commenter (0124) suggested that focusing on heavy metals in coatings from sources beyond autobody refinishing in this rule is ultimately inequitable and excessive because none of the major source NESHAP for surface coating operations has requirements on non-volatile HAP. For that reason as well as the concern with the level of impact analysis done for metal surface coating operations, the commenter suggested that, at a minimum, the metal surface coating operations should not be included in this rule and instead should be addressed in a separate rule package.

[2] 67 FR 70427 (November 22, 2002)

Response: The EPA's decision to list plastic parts and product (surface coating) as an area source category was based on analysis of emissions data from over 20 different SIC codes that represent manufacturers of parts and products that contain both metal and plastic substrates. These included, for example, architectural metal work; games, toys, and childrens' vehicles; motor homes; motor vehicle parts and accessories; motor cycles, bicycles, and parts; musical instruments; transportation equipment not elsewhere classified; and truck and bus bodies. These analyses were documented in "1990 Emissions Inventory Of Forty Potential Section 112(k) Pollutants, Supporting Data For EPA's Section 112(K) Regulatory Strategy, Final Report" (May 21, 1999).[3] A copy of the relevant portions of this document has been included in the docket for this final rulemaking.

Since the analysis of the inventory included a broad sampling of both metal and plastic surface coating that were identified as sources of the target HAP, the EPA is regulating both metal and plastic surface coating operations in the final rule. To more accurately reflect the scope of the regulated operation, we refer to them in the final rule as "miscellaneous surface coating operations" and describe them more completely in the applicability section of the final rule.

[3] 1990 Emissions Inventory Of Forty Potential Section 112(k) Pollutants Supporting Data For EPA's Section 112(K) Regulatory Strategy. Final Report. Distributed by: Emission Factors and Inventory Group (MD-14), Emissions, Monitoring and Analysis Division, U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, and Emission Standards Division (MD-15) U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. May 21, 1999. see p. A-227 of Appendix A.

7.0 BASIS OF SURFACE COATING STANDARDS

Comment: One commenter (0084) supported EPA's decision to set standards that reflect generally available control technology (GACT) in lieu of maximum achievable control technology (MACT) for these area sources.

Response: Section 112(d)(5) of the Act allows the Administrator to set GACT standards for area sources in place of MACT standards. The preamble to the proposed rule and the technical support document for the proposed rule that is in the docket explain the EPA's rationale for the selection of GACT.

Comment: One commenter (0088) believed that the requirements for spray booths and painter training, particularly applied to very small facilities and those that apply coatings to large parts or subassemblies, are beyond GACT because the controls go beyond what is "generally available" and would dramatically increase the compliance burden of most sources, particularly small ones.

Two commenters (0069, 0133) suggested that EPA should collect additional information on the types of spray equipment and practices being used, coatings being employed, and production rates at small sources. The first commenter (0069) claimed that the requirements for spraying automotive coatings do not necessarily carry over well to other surface coating processes, and that EPA has over-generalized the information collected primarily from auto collision facilities. The second commenter (0133) was concerned that EPA did not collect information from smaller facilities and many smaller facilities may not be spraying inside of a filtered booth.

Other commenters (for example, 0047, 0048, 0049, 0050, 0053, 0055, 0063, 0074) supported the proposed standards as GACT as they apply to motor vehicle and mobile equipment surface coating operations.

Response: The EPA disagrees that spray booths and painter training are beyond GACT for sources using coatings containing the target HAP. The analyses performed in support of the

proposed rule demonstrate that painter training and filtered spray booths are both commonly employed by motor vehicle and mobile equipment surface coating sources, and miscellaneous surface coating sources of all sizes. These conclusions were based on analyses of both automotive surface coating operations and miscellaneous surface coating operations. As explained in the Technical Support Document for the proposed rule, the information for miscellaneous surface coating operations was collected from a survey database with detailed information from over 200 area source surface coating facilities. Therefore, it is inaccurate to conclude that EPA has generalized information collected on automotive surface coating operations to miscellaneous surface coating operations. The data from the area source miscellaneous surface coating sources indicated that they were using the same practices to reduce emissions (e.g., spray booths and high efficiency spray equipment) as automotive refinishers.

The EPA visited a range of automotive sources at which the proposed standards were observed. These included a one-person shop, and at least three shops that employed only a single painter. These sources were already using spray booths and HVLP spray guns that constitute GACT for the motor vehicle and mobile equipment surface coating source category.

However, the EPA has revised the proposed rule such that painter training and spray booths are only required for miscellaneous surface coating operations using coatings that contain the target HAP. Miscellaneous surface coating operations that do not use coatings that contain the target HAP will not be subject to these requirements. The EPA has also revised the spray booth requirements so that spray booths are not required for surface coating of structures and process equipment, including some pieces of mobile equipment, that meet the definition of facility maintenance.

Comment: One commenter (0112) suggested that the final rule language contained in the General Compliance Requirements in §63.11172 should require all types of surface coating operations, including aerosol spray cans, air brushes, brushes and rollers, be performed over an impervious surface so that the coating or solvent can not enter the soil. The rule should also require that lids and containers tightly seal to prevent evaporation or accidental spills.

Response: The EPA agrees that the suggested changes are consistent with good environmental practices to prevent soil or water contamination and excess VOC emissions from paint and solvent evaporation. However, they are beyond the intended scope of this rule to

reduce air emissions of the target HAP and would have no effect on these emissions. Therefore the commenter's suggestions are not being included in the final rule.

Comment: One commenter (0088) suggested that diisocyanates should be a target HAP for this rule. She noted that businesses are changing to products with low or no heavy metal content, but the use of diisocyanates in these products is on the increase. If a rule is to be promulgated that will have such a significant impact on affected sources, the rule should include target pollutants that will impact the business and the environment the most, giving a business reason to reduce or eliminate their use and a reason to buy new equipment and train spray technicians.

Response: The EPA agrees that the surface coating source categories regulated by the rule can be sources of diisocyanate emissions, in particular motor vehicle and mobile equipment surface coating operations that use two-part polyurethane coatings. However, diisocyanates are not one of the HAP identified as urban air toxics by EPA under section 112(k) of the Act, and so are not regulated by these area source regulations.

It is hard to predict what effect, if any, the final standards will have on the use of coatings that contain diisocyanates. The target HAP for which the surface coating source categories were listed are found in the pigments that are used in the coatings to achieve particular colors or for corrosion protection. The diisocyanates are used as a hardening and cross-linking agent in the polyurethane resins. Therefore, a trend away from the use of target HAP as pigments will not necessarily lead to an increase in the use of coatings that contain diisocyanates.

To the extent that the final rule reduces overall coating consumption through operator training to reduce coating overspray, it will also help to reduce emissions of diisocyanates.

8.0 TRAINING REQUIREMENTS

Comment: One commenter (0086) reported that in New York's own rule development, the state investigated the option of requiring a training and certification program and came to the conclusion that it would be too much of a burden on the small refinishing facilities with minimal environmental benefit beyond what the Department currently requires them to do. It was their conclusion that proper use of the HVLP guns was an economically-driven benefit and along with the stringent VOC-content limits the Department implemented on the coatings being used would be sufficient in order to reduce VOC. The commenter recommended utilizing the Section 112(l) alternative program approach if the proposed rule was promulgated for the automotive refinishing category with a training and certification program as part of the regulatory approach.

Response: The EPA disagrees with the commenter on the benefits of training for small sources beyond the use of HVLP spray guns. The information collected in the development of the proposed rule indicates that even experienced painters can benefit from additional training, even when making the transition from conventional to HVLP spray guns. Without proper training in the set up of the HVLP spray guns, painters may have difficulty achieving the same finish quality as with conventional spray guns. In order to maintain finish quality, the painter may compromise the HVLP features of the spray gun by, for example, increasing the operating air pressure of the guns such that the HVLP benefits have been minimized. Therefore, the EPA believes that the training component of the rule is important for achieving the expected environmental benefits from the specified equipment requirements and at the lowest possible cost to the affected sources.

Comment: One commenter (0084) requested that the rule clarify the meaning of the words "certified" and "certification." It is not clear whether these are in addition to completing training, or mean that the painter has some documentation that the training was completed.

Response: Certification means that the painter has documentation that they have completed training. It is expected that this documentation will be received from the training provider at the successful completion of training.

Comment: One commenter (0114) stated that detailed training requirements for spray painters were not established in other previously promulgated MACT Standards. If a certification or training program is expected, the rule should make provisions for a certifying agency or procedures. Another commenter (0124) stated that training options should not be limited to any one type of program or it will create a limited market and costs that may not be affordable for the very small shops. The commenter suggested that the rule language be much more specific about the criteria that would indicate a training program meets the minimum requirements.

Response: The EPA believes that training should not be limited to any one provider or a small number of providers, and should be available and affordable for all size shops. The final rule includes additional detail on the training requirements so that alternative training programs can be developed that meet the minimum requirements. For example, the EPA recognizes that some larger employers may wish to develop in-house training programs that are focused on the materials, products, and procedures used at a particular facility.

The EPA does not believe that it is necessary to establish or designate a body to certify or approve training programs to comply with the requirements in the final rule. The final rule includes sufficient detail on the training requirements so that training programs can be developed that meet the minimum requirements. The EPA feels that painters and the shops that employ them are better able to evaluate training programs than the agency. Since the shop owner or the painter will need to absorb the initial cost of training, even though it should represent a coating cost savings in the long run, it will be up to painters and shops to identify and evaluate training programs that best meet the requirements of the final rule and which seem to be the best investment of their time and resources.

Comment: One commenter (0075) requested that EPA allow or place preference on certain training programs or technologies. One commenter (0075) stated that funding for the Spray Technique Analysis and Research (STAR™) training program should be restored to meet the increased need for painter training. STAR training can be very effective and produce significant reductions in emissions, and increase painting efficiency. Unfortunately, training programs that incorporate STAR techniques are not widely available.

The commenter also recommended that training programs used to meet this regulation should be validated or certified by an independent clearinghouse. Since EPA does not have the necessary painting experience, it should be a proven program that has a history of developing and providing paint technician training.

The commenter also suggested that the rule should allow for a training alternative that would employ technological advancements such as the LaserPaint™ system.

Response: The EPA agrees that the STAR training program can be effective and produce significant emission reductions. However, the EPA feels that painters and the shops that employ them are adequate judges of available training programs that meet the requirements of rule. Since the shop owner or the painter will need to absorb the initial cost of training, even though it should represent a coating cost savings in the long run. It will be up to painters and shops to identify and evaluate training programs that best meet the requirements of the final rule and which seem to be the best investment of their time and resources.

The EPA recognizes that computer simulations and "virtual reality" training systems such as LaserPaint could help provide effective training at lower cost, and therefore enhance compliance with the final rule.

Comment: Two commenters (0084, 0117) requested that the rule should allow for on-the-job training and should allow 180 days after hiring for new painters to be trained, as well as for new painters at existing facilities.

Response: The EPA agrees with the commenters and the final rule was revised to allow 180 days after hiring, or job transfer within a facility, for new painters to be trained. On the job training that meets the training requirements in the final rule would be acceptable.

Comment: One commenter (0124) requested that an alternative to training certification should be included in the final rule. The commenter suggested an operator performance test similar to the NESHAP for halogenated solvent cleaning. As proof of EPA's support for an operator performance test, the final rule document for the Halogenated Solvent NESHAP stated: "EPA believes that the best method for EPA to determine compliance without excessive burden to an owner or operator is to test during inspections."

Response: Since training programs are available that meet the EPA's objective of reducing emissions through improved transfer efficiency, the EPA has retained the training certification requirement in the final rule without an alternative option. EPA feels that the training requirements are clearly defined within the final rule and that no added benefit would be

provided through the addition of an operator test similar to that in Appendix A of 40 CFR 63 Subpart T. EPA feels that improved transfer efficiency achieved through painter training combined with spray booth requirements effectively meets the EPA's objective for the rule.

Comment: A commenter (0081) stated that I-CAR or ASE certification for painters as required by the new rule is unnecessary. The commenter expresses his opinion that painting is an art form not possessed by everyone and a test/certification should not be used to dictate who works as a painter. One commenter (0150) felt that painter training of experienced professional painters was unnecessary.

Response: The EPA agrees that spray painting is a skill that is not easily mastered, and that shop owners will avoid hiring and keeping poorly performing spray painters. However, information collected by EPA in development of the proposed rule has shown that even experienced spray painters can improve their transfer efficiency and reduce emissions and paint consumption through appropriate training. Therefore, the final rule retains the training requirement for all spray painters at motor vehicle and mobile equipment finishing and refinishing operations, and for all spray painters at miscellaneous surface coating facilities that use coatings containing the target HAP.

Comment: Two commenters (0056, 0072) stated that some operators within this industry may not be able to complete training because of existing language barriers or literacy issues. One commenter (0056) stated that it has been hard to get Spanish speaking workers certified by I-CAR in the El Paso, TX area. The commenter requests that Spanish courses are offered as often as English courses in this area, and that the rule specifies exactly which certifications workers need.

Another commenter (0062) predicted that painter training provided by the Inter-Industry Conference On Auto Collision Repair (I-CAR) will be made available across the country. Another commenter (0067) noted that the National Institute for Automotive Excellence (ASE) could provide independent, third party painter certification testing, and provides this service at over 700 test locations nationwide. The same commenter estimated that they could also provide on-line testing for a fee between $15-25 per user.

Response: The EPA agrees that many industrial painters come from a wide variety of educational and language backgrounds. The final rule does not specify that any one training provider or program must be used. The final rule allows a great deal of flexibility for the best training environment and certification process that an owner or operator can identify for their

particular work site that meets the requirements in the final rule. As for mandating that courses be provided in languages other than English, EPA hopes that demand for such courses will improve availability on a region by region basis.

Although the rule does not require third party certification to demonstrate compliance with the training requirements, a copy of such certification could be used to document compliance with the training requirements in the final rule.

Comment: Two commenters (0061, 0079) stated that operators of miscellaneous automated spray lines should not be required to receive a training certification. One commenter (0079) stated that typically there is no surface prep involved in such operations and that spray booth maintenance is automated except for filter change out, which is handled by a maintenance crew.

Another commenter (0061) requested that training should only apply to painters that actually manually apply coating using a handheld spray gun. Automated spray equipment is used to maximize transfer efficiency and minimize overspray.

Response: Automated surface coating operations are exempt from all the requirements in the final rule since they are not considered part of the source category, which is focused on painters using hand-held spray application equipment.

Comment: Several commenters (0124, 0077, 0097, 0052) requested that the rule be clarified so that painter training be limited to personnel that spray apply coatings that contain the target HAP. One commenter (0077) stated that requiring all metal and plastic painting operations to be conducted by a certified painter, regardless of size, places an undue burden on small facilities. This requirement is also impossible for prison industries to comply with, as they are unable to send inmates to such training. Another commenter (0124) requested that the rule be revised to exclude painters using brushes and rollers from the training requirement.

Response: The final rule has been clarified so that it clearly states that painter training is only required for manual spray coating operations and only for those miscellaneous surface coating operations that use spray coatings that contain the target HAP, and for all motor vehicle and mobile equipment surface coating operations. The rule has also been revised to allow for greater flexibility in the type of training that is provided and to allow for training programs that can be brought into a painting facility by a training provider. Painters using brushes and rollers, and other non-spray application methods, are not subject to the training requirements.

Comment: One commenter (0079) proposed that EPA revise the definition of the term "painter" so that it reads: "Painter means an employee whose sole responsibilities are spent in the application of spray coatings to metal or plastic substrates, or a combination of both. Painters are those employees who have previously completed occupational certification through a certified trade school, and whose primary responsibilities (primary meaning greater than 95% of the time) are defined in an initial job description as applying of spray coatings to metal or plastic substrates, or a combination of both. Application of spray coatings also includes brushing, immersion, mixing, applying, storage, drying and curing, flash-off, touch up, surface prep, waste management, and cleaning operations. An employee who performs only occasional spray coating activities, or uses an air brush, non-refillable handheld aerosol cans, touch-up markers, marking pens, or fully automated, enclosed spray coating equipment, are not considered painters or subject to the requirements of this subpart."

Response: The EPA recognizes that some employees in a shop may not be dedicated to painting full time. However, EPA feels it is important for all miscellaneous surface coating painters that spray apply coatings that contain the target HAP and for all motor vehicle and mobile equipment spray painters to complete training to ensure that emissions are minimized. Even so, the EPA has revised the rule to exclude spray coating activities that use an air brush or any other type of spray gun with a cup capacity equal to or less than 3 ounces, non-refillable handheld aerosol cans, touch-up markers, marking pens from all requirements of the final rule. In addition, fully automated spray coating operations exempt from all requirements in the final rule.

Comment: Two commenters (0085, 0087) stated that the training and certification requirement should be a one-time mandate, due by a one year/120 day compliance deadline, and that the proposed 40 CFR §63.11173(g)(3) should be deleted. One commenter (0087) stated that retraining every five years is not needed because of the daily experience of painting. Additional training should only be required when a new type of equipment is installed at a facility.

Response: Refresher training is retained in the final rule since it is important to ensure that painter techniques do not revert back to those that were used before training, and also so painters can be brought up to date on current technologies. Therefore, 40 CFR §63.11173(g)(3) has been retained in the final rule.

Comment: Several commenters (0064, 0086, 0092, 0106, 0124) stated that the training is too broad and burdensome. Two commenters (0064, 0092) stated that training should be

eliminated for all personnel except paint booth maintenance personnel, who should be trained only in filter alignment and maintenance. One commenter (0064) stated that the rule does not justify the level of training versus the expected environmental benefits. Training has little applicability outside of a bodyshop environment. Training is not applicable to maskants, adhesives and cleaners. Training costs could create a burden for small shops that experience frequent operator turnover. Two commenters (0092, 0086) felt that the training requirements are too burdensome for small businesses. One commenter (0092) stated that many small businesses have only one or two employees that perform multiple functions and do not specialize in only painting.

One commenter (0101) suggested that, as a paint manufacturer, they provide sufficient technical information via hard copy and on-line support in the use of their products such that additional training is not needed, or can be met in other more economical and efficient ways.

Response: The EPA disagrees that the proposed training and certification requirements are too burdensome for small miscellaneous surface coating and motor vehicle and mobile repair facilities. The training requirements have been refined in the final rule to specifically address only those operations that have the most direct effect on emissions, which include spray booth operation and maintenance. However, since painter technique has a direct effect on the potential emissions from spray painting operations; it has been retained in the final rule.

The EPA recognizes that some employees in a shop may not be dedicated to painting full time. EPA feels that for miscellaneous surface coating operations, it is important for all spray painters at sources that use coatings that contain the target HAP to complete training to ensure that emissions are minimized.

Comment: One commenter (0124) noted that the topics of "safety precautions" and "environmental compliance" appear in the rule and one section of the preamble. The commenter suggested that these are very broadly stated and could be considered so vague and all-encompassing that some low cost resources for training, like local trade associations, may avoid offering it because they see it as beyond their capability to fully certify spray painters on those topics. The commenter suggested removing those two items and focus the training specifically on best practices related to the spray operation itself. If eliminating these elements is not an option, the commenters suggested clarifying them by changing the training criteria to read "safety precautions that should be addressed when mixing and matching coatings and operating

and maintaining spray equipment, spray booths, and prep stations" and similar language on environmental compliance.

Response: The EPA agrees that the topic of safety precautions in the proposed training requirements goes beyond the scope of topics that directly affect emissions from spray coating operations, and they have been removed from the list of topics that must be covered, as a minimum, for compliance with this rule. However, the EPA feels that environmental compliance, as it relates to compliance with the final rule requirements, should still be covered since a solid understanding of the rule requirements will facilitate compliance and reduce the potential emissions and burden of noncompliance. Therefore, that topic has been retained in the final rule, but has been clarified that it relates only to the subject of compliance with this particular subpart.

Comment: Two commenters (0078, 0119) stated that the rule language be more specific regarding training criteria that would indicate a training program meets the minimum rule requirements. One commenter (0119) suggested that the most effective way to ensure that a training program meet the set of standards for training, would be to require the manufacturer, trade school, or consultant providing the training to submit curriculum to EPA for prior approval. The curriculum criteria may be developed through rule implementation guidance developed with industry. The guidance should make clear it is the trainee's responsibility to acquire and use the training properly and the training institution is not liable for the trainee's failure to do so.

Response: Training providers do not need to submit curriculum to EPA or any other agency for prior approval. The requirements of the painter training are included in the final rule and additional detail has been added on the topics that should be covered to ensure that painters who complete the training have learned techniques that have been shown to reduce emissions.

The EPA feels that painters and the shops that employ them are better able to evaluate training programs than the agency. Since the shop owner or the painter will need to absorb the initial cost of training, even though it should represent a coating cost savings in the long run, it will be up to painters and shops to identify and evaluate training programs that best meet the requirements of the final rule and which seem to be the best investment of their time and resources. The EPA agrees that it is the trainee's responsibility to acquire and use the training properly and training providers should not be held liable for a painter's failure to do so. To the extent that additional guidance on the training requirements is needed, the EPA will work with all affected parties to develop that guidance.

Comment: One commenter (0116) stated that that appropriate training, appropriate preparation and appropriate application of the coatings can only be guaranteed if the painter is proven to be qualified to purchase and use the products through holding a license or other certificate of qualification. Without such qualification, poorly trained individuals can still inflict harm on themselves and the public due to improper use of these potentially quite dangerous products.

Response: The EPA believes that the final rule requirements for certification that painters have completed training is sufficient to achieve the emission reductions needed by the Urban Air Toxics program. The EPA considered a requirement that would prohibit the purchase of coatings to anyone but a qualified user, but determined that such a program would be difficult to implement and enforce and would impose a burden on certain entities, such as the coating sellers, that could not be regulated under this part of the CAA. A purchase restriction would have also prevented the use of these coatings by hobbyists, and hobbyists are not part of this source category. The final rule will not require training of hobbyists, but also includes a very narrow definition of hobbyist so that it cannot be used as a way to avoid compliance by larger coating users. In addition, the final rule requirements are easy to understand, so compliance should be fairly straightforward. The final rule requirements can also be easily enforced through site inspections.

The EPA agrees that many of the products that are the subject of this regulation are potentially harmful to the people using them, in particular coatings that contain diisocyanates that are often used for motor vehicle surface coating. Coatings that contain diisocyanates have been documented to cause occupational asthma in workers, even after relatively brief exposures. However, these effects and hazards are known to the manufacturers and sellers of these coatings and the containers have warnings about these hazards on their labels. The EPA agrees that these materials should not be used by persons who are not able to follow the necessary precautions when working with these materials, but controlling the sale and purchase of these materials to the general public is beyond the scope of this rule making.

9.0 SPRAY GUN REQUIREMENTS

Comment: Several commenters (0083, 0092, 0131) stated that a number of spray coating applications cannot be accomplished using HVLP, electrostatic guns, or equivalent techniques. Two commenters (0083, 0131) stated that EPA determined during the development of the NESHAP for Aerospace Manufacturing and Rework Facilities (40 CFR 63, subpart GG) and other major NESHAP rules that high solids coatings cannot be applied using HVLP (or equivalent) methods.

Response: For the reasons described in the preamble, the final rule includes the same exemptions from the HVLP requirements for aerospace manufacturing and rework facilities as subpart GG. The rule was revised to exempt any situation in the surface coating of aerospace vehicles that normally requires the use of an airbrush or an extension on the spray gun to properly reach limited access spaces; the application of coatings that contain fillers that adversely affect atomization with HVLP spray guns; and the application of coatings that normally have a dried film thickness of less than 0.0013 centimeter (0.0005 in.). The technical basis for these allowances for aerospace surface coating operations was established in the development of subpart GG. Since there is no technical difference between these aerospace surface coating operations at area and major sources (aside from the relative size of these operations), the EPA is including the same allowance in the final rule as found in subpart GG.

Comment: Several commenters (0069, 0097, 0099, 0109) requested that airless and air-assisted airless spray should be considered equally efficient and equivalent to HVLP, and requested that EPA treat airless spray equivalent to HVLP for the purpose of this rule. One commenter (0099) stated that airless spray operations are very common for most miscellaneous parts surface coating operations and should be considered as a viable and authorized option. Another commenter (0109) stated that airless spray guns are used for coating structural steel and should be accepted as equivalent to HVLP.

Another commenter (0069) stated that while HVLP spray guns and gravity fed supply lines are well suited for the automotive refinishing industry, pressure fed application equipment is best suited and typically used in other miscellaneous sectors. Other sectors use coatings that have characteristics much different from automotive coatings. Quite often, these coatings, such as primers used on structural steel, are higher in viscosity because of higher solids content. The commenter stated that applying observations from auto refinishing facilities across-the-board is not appropriate.

Response: The final rule requires that miscellaneous surface coating operations are only required to employ HVLP, or equivalent, spray guns if they are spraying coatings that contain the target HAP. Motor vehicle and mobile equipment surface coating operations must use HVLP or equivalent spray guns for all surface coating. The rule was also revised to allow airless and air-assisted airless spray guns as alternatives to HVLP. Airless and air-assisted airless spray guns are used in some applications instead of HVLP spray guns because they are more suited to spraying higher solids coating, such as in the fabrication of large structural steel components, and in applying coatings to ships and other marine items. In these cases, HVLP spray guns are not feasible because of the viscosity of the coating, and airless and air assisted airless spray guns are the most efficient means to spray apply these coatings.

Comment: Two commenters (0092, 0064) stated that the HVLP requirement should be limited to paint refinishing and excluded from small spot repairs. The commenter explains the reasoning behind the comment is that HVLP does not blend well for spot repairs, especially with metallic coatings and other high-solids coatings.

Response: The commenters provided no additional information to support the assertion that HVLP spray guns do not perform as well as conventional spray guns to blend spot repairs. During the development of the rule, EPA visited over 20 automotive collision repair shops using HVLP spray guns to perform a variety of refinishing jobs, including blending and spot repairs. Therefore, the final rule does not include an exemption from the HVLP spray gun requirements for spot repairs or blending.

Comment: Three commenters (0047, 0127, 0134) stated that the use of miniature spray guns should not be exempt from the spray booth requirements. One commenter (0134) requested that EPA consider revising the final rule to ensure that operations using "miniature spray guns" or similar technologies are required to have a spray booth. According to the commenters, even though small amounts are being sprayed, there seems to be more and more spraying outside the

booth taking place and the use of such miniature spray guns seem to be crossing over to full production spraying.

Response: Surface coating with these miniature spray guns is regulated by the rule. Painters employing such miniature spray guns are still required to receive training and coating must be done in a filtered spray booth unless the spray gun has a paint cup capacity equal to or less than 3.0 fluid ounces (89 cc). The final rule was revised to allow coating outside of a spray booth if the cup size is equal to or less than 3.0 ounces. The exemption is based on coating volume alone and these types of spray guns are used only for small areas and minor touch up.

10.0 SPRAY BOOTHS

Comment: Several commenters (0058, 0070, 0097, 0099, 0109, 0111, 0117, 0120, 0123, 0136) stated that requiring spray booths is not practical, realistic, or economically feasible for some facilities performing coating on work pieces that are too large to fit in a booth such as large metal work pieces, fixed equipment, structural steel, and large mobile equipment. Several commenters also stated that requiring spray booths for these types of operations would make the rule more stringent than the MACT rules for the corresponding industries. One commenter (0099) provided an offshore drilling rig as an example of an object that is too large for a spray booth. According to the commenter, offshore oil rigs are brought to shore for maintenance surface coating, but they are not brought on to shore and are coated while still in the water. Two other commenters (0058, 0123) also requested that the rule include an exemption for the surface coating of oversized parts. One commenter (0058) noted that they manufacture heavy parts that are difficult to move and that can present a physical hazard while being moved. The other commenter (0123) noted that it is not feasible to enclose ships in a booth during surface coating operations. One commenter (0109) representing structural steel manufacturers noted that some steel pieces may be as long as 120 feet, but that these manufacturers use little coating that contains the target HAP.

Response: The final rule clarifies that it does not apply to miscellaneous surface coating operations that do not spray apply coatings that contain the target HAP. As described in the preamble, the rule was also revised to exempt facility maintenance of fixed equipment and architectural surface coating of stationary structures. Facility maintenance includes the application of coatings in the field to mobile equipment that is coated at the place where it is used. Therefore, facility maintenance includes the surface coating, for example, of farming and mining equipment that is coated at the place where it is used. Facility maintenance also includes the surface coating of offshore oil rigs because these are coated while still in the water.

The final rule has not been revised to specifically exempt the surface coating of large objects from the spray booth requirement. However, the surface coating of large objects would not be subject to the requirements of the final rule if the coatings that are spray applied do not contain the target HAP, the surface coating operation of the object met the definition of facility maintenance, or the surface coating was done using non-spray application methods. The EPA believes that the surface coating situations described by the commenters involving large objects all fall into at least one of these categories. Therefore, they would not be subject to the requirement to use a spray booth and an exemption for large objects is not specifically required by the information provided by the commenters.

Comment: Four commenters (0082, 0102, 0103, 0127) expressed concern regarding the language requiring negative pressure paint booths. The reason for this concern is that for critical finishes, such as automotive, negative pressure will cause airborne dust and dirt to be drawn into the booth and mar the finish. As a result, downdraft paint booths used for automotive refinishing are usually ventilated at slight positive pressure so that contaminants are kept out of the booth, although door seals and filtration systems are still used to protect air quality. One commenter (0102) suggested that the final rule include the following language:

> "In applications that require a dust/dirt free finish, and where the spray booth is totally sealed and the booth control system utilizes an automatic pressure balance system, spray booths may be operated at up to, but not more than, 0.05 inches water gauge positive pressure."

Response: The final rule was revised to allow for downdraft spray booths that are balanced at slight positive air pressure and incorporates the recommended language. The EPA observed several spray booths of this configuration during site visits in the development of this rule and agrees that with appropriate door seals and filtration systems these booths are as protective of the environment as booths operated at negative pressure.

Comment: Several commenters (0064, 0092, 0097, 0123, 0124, 0150) stated that the EPA has understated the impacts of the proposed requirement to use a spray booth for all spray finishing operations. The commenters noted that EPA did not assign any costs to the requirement to use a spray booth because the EPA had assumed that spray booths would be already required in order to comply with OSHA standards for spray finishing operations under 29 CFR 1910.94(c). The commenters argued that OSHA standards require a spray booth only if

certain exposure conditions are met and these exposure conditions can be avoided with, for example, the use of waterborne coatings or outdoor spraying operations. Other examples of spray coating operations that can be conducted outside of a filtered spray booth in compliance with OSHA include automotive undercoating, areas of low coating use with adequate ventilation, powder coating, waterborne products, and touchup and repair coating.

Response: The EPA acknowledges that there are situations in which OSHA does not require surface coating to be performed in a filtered spray booth. However, the use of a filtered spray booth, along with painter training and the use of high efficiency spray equipment, constitutes GACT to control emissions of the target HAP from spray coating operations, for the reasons described in the preamble, regardless of the scope of OSHA requirements. That being noted, the rule was revised to clarify that the scope of the source category does not include miscellaneous surface coating operations if the coatings being sprayed do not contain the target HAP, facility maintenance surface coating and other architectural surface coating of stationary structures, powder coating, and the spray application of coatings from a spray gun with a cup size equal to or less than 3.0 fluid ounces (89 cc). Given the clarified scope of the surface coating operations that are subject to the spray booth requirements in the final rule, the EPA believes that there is a substantial overlap between the operations that would be performed in a spray booth to comply with OSHA standards for spray finishing operations and those that would be required to do so by this rule. Therefore, the EPA does not believe that we have substantially underestimated the cost of the final rule.

Comment: One commenter (0092), notes that 29 CFR 1910.94(c) cross-references §1910.107, which relates to the design of spray booths. According to the commenter, OSHA has made a binding interpretation that it will not cite companies for non-compliance with this standard if they comply with a National Fire Protection Association consensus standard, NFPA-33.

Response: The final rule does not contain any requirements for spray booths that would be in conflict with either 29 CFR 1910.94(c), 1910.107, or NFPA-33.

Comment: One commenter (0124) stated that the definition of a preparation area and spray booth "as adequate structures in which to conduct spraying and painting operations" is directly at odds with the definitional boundaries of OSHA regulations 1910.94 and 1910.107. These OSHA requirements are very specific as to their definition of a "spray booth." Spray painting operations compliant with the rule's definition allowing painting to take place in a "prep

area" may not qualify under OSHA regulations and can consequently put a source at odds with two federal agencies regulating the same operation, even though from different perspectives.

Response: The EPA does not believe that the standards for spray booths could put a source at odds with OSHA by complying with the final standards. Spray coating operations in a filtered prep station will be compliant with this rule's requirements, if the prep station has four complete side curtains and it is ventilated such that the exhaust is drawn through a compliant filter. However, the EPA agrees that not all prep stations, in particular those that were designed and intended only for sanding and small priming jobs, may comply with all OSHA requirements for spray coating operations if, for example, they are used for larger finishing jobs. It is the operator's responsibility to ensure that surface coating that is performed in a prep station is in compliance with OSHA regulations and the prep station is operated consistent with its intended function and in a way that is compliant with OSHA regulations. It will be the operator's responsibility to determine when coating can be done in a prep station and when it needs to be done in a booth in order to comply with OSHA standards. This rule does not include any requirements that conflict with OSHA requirements.

Comment: Two commenters (0073, 0097) pointed out that EPA has not addressed enclosing wholly or partially automated spray systems into a spray booth. One commenter (0097) stated that the costs for enclosing automated coating lines will be very high and requested that EPA exempt all fixed point automatic spray installations from this rule.

Another commenter (0073) stated that the proposed rule did not include language that addressed spray booth configurations with openings for tracking and conveyor lines. The commenter suggested setting a percentage limitation for the opening allowed in the entrance and exit sides of automatic spray booths. The percentage would then be the equivalent of three sides of a spray booth. The commenter also stated that incoming air vents should also be addressed.

Response: The rule was revised so that automated or robotic spray operations are exempt from all requirements since they were not part of the intended source category. All automated and robotic surface coating operations are not required to meet these requirements since these operations are typically performed in a booth, are part of a production line operation with similar, if not identical, parts, and often result in high transfer efficiency. The rule was also revised to allow for openings in spray booth sides and ceilings on manual spray lines to allow for the movement of parts on conveyors.

Comment: One commenter (0122) requested that the EPA work with OSHA on developing consistent regulations and cross reference materials for spray booths.

Response: The requirements for spray booths in the final rule have specified only the spray booth requirements that are necessary to meet the goal of reducing air emissions of the target HAP. The EPA recognizes that OSHA standards cover most other aspects of spray booth construction, operation, and maintenance. By focusing only on those factors that affect target HAP emissions, the EPA has tried to minimize the chance for having requirements that conflict with OSHA standards for spray booths, and the final rule does not contain any provisions that are in conflict. The EPA recognizes that some of the requirements to reduce target HAP emissions may result in the use of a spray booth in some cases in which one is not required by OSHA, but the EPA does not believe that this in conflict with those relevant OSHA standards because a spray booth could still be used that complies with this rule as well as with OSHA standards.

Comment: One commenter (0110) noted that spot repairs on automobiles can be performed using commercially available portable extraction systems. One such system, marketed as the Junair Smartair System, consists of a ring that is placed around the area to be repaired. A flexible skirt is used to seal the ring to the surface around the repair. The ring is hollow and is attached to a ventilation system so that air and overspray are drawn into the ring placed around the area being repaired. The system is analogous to a portable hood that is placed around the area being painted to capture and remove the paint overspray and solvent fumes from the work area. The commenter asked whether this would be an acceptable alternative to a spray booth for small spot repairs.

Response: The EPA reviewed the product information cited by the commenter and agrees that portable or mobile enclosures and extraction systems such as the one cited by the commenter are reasonable alternatives to a full size paint booth for small repairs. The paint booth requirements in the final rule have been revised to allow for the use of portable enclosures and extraction systems that can be used to enclose only the area being refinished in a spot repair. The enclosure must still be ventilated so that air is drawn into and paint overspray is captured by the enclosure, and must also meet the same requirements for spray booth filters as full size spray booths.

11.0 SPRAY BOOTH FILTERS

Comment: Several commenters (0076, 0077, 0084) stated that requiring facilities to demonstrate compliance by testing for filter efficiency places an undue burden on any facility attempting to use a more efficient filter. Vendor guarantees or specifications should be sufficient for compliance.

Response: It was the intent of EPA that filter specifications or filter performance data provided by the filter manufacturer would suffice for the purpose of compliance with the filter efficiency provisions in the proposed rule. The final rule was clarified that records of manufacturer specifications or vendor supplied or published data are sufficient for demonstrating compliance with the filter efficiency requirement. Operators are not expected to have to perform the test since it is usually done by the filter vendors.

Comment: Two commenters (0125, 0150) stated that water wash filters were not discussed in the proposed rule. One commenter (0125) requested that EPA assess the acceptability of water wash booths as a control technology for overspray. The second commenter (0150) stated that they should be allowed as an alternative.

Response: The final rule was revised to state that water wash spray booths will be acceptable for the purposes of complying with the rule as long as they are used and maintained according to manufacturer specifications and consistent with good air pollution control practices. Although many water wash spray booths have been replaced or retrofitted with dry filters, there are some applications where water wash spray booths are still the most practical technology to control paint overspray. Since EPA believes that properly operated and maintained waterwash spray booths are nearly as efficient as required by this rule for dry filters and it would not be cost-effective to require retrofitting with dry filters, considering the potential limited increase in capture efficiency, the final rule provides for the use of water wash spray booths, but requires that they be operated and maintained according to the manufacturer's specifications.

Comment: One commenter (0129) states that ASHRAE has published a method subsequent to Method 52.1 for determining filter efficiency with consideration given to particle size entitled Method 52.2, Method of Testing General Ventilation Air Cleaning Devices for Removal Efficiency by Particle Size. The commenter recommends that the proposed rule allow the use of the ASHRAE 52.2 method or EPA Method 319 in addition to ASHRAE Method 52.1.

Another commenter (0105) also indicated that the gravimetric test method component of ASHRAE 52.1 involves loading the test filter with synthetic dust. The commenter states that 98 percent efficiency might be achieved with this method. However, the term "efficiency" is not used. Instead, "arrestance" is the proper term

Response: The EPA included ASHRAE Method 52.1 in the rule as a practical and economical method for measuring overall coating overspray arrestance efficiency, measured as the fraction of paint overspray captured in the filter.

The EPA recognizes that the alternative methods suggested by the commenters can be used to measure the filter efficiency for the smallest particles (e.g., less than 10 microns diameter) that represent the greatest potential inhalation exposure to the target HAP. However, these alternative methods are not commonly used to measure the efficiency of paint booth filters, and are more difficult and expensive to perform. Therefore, the EPA proposed the use of ASHRAE Method 52.1 that is modified to use paint overspray in place of dust and this method has been retained in the final rule.

Comment: Two commenters (0064, 0089) request that all references to 98 percent filter efficiency be removed from the rule. The commenters state that efficiency is achievable under ideal conditions for properly installed and maintained fiberglass or polyester filters, but is affected by air flow, particle size, particulate loading, filter maintenance and filter alignment, but conclude that 98 percent is not achievable in all of the commenter's booths considering all the booth designs and coatings.

Response: EPA disagrees with the commenters. EPA collected data from filter vendors during the development of this rule. The performance data EPA collected from filter vendors, which is in the docket for this rulemaking, indicate that most fiberglass and polyester type filters are capable of achieving at least 98 percent capture of overspray when tested with high solids, bake enamel coating, per the modified Method 52.1. The majority of fiberglass and polyester filters achieved over 99 percent capture efficiency in the tests. The numeric limit of 98 percent correlates to an observed distinction between filters deemed appropriate for compliance to this

rule and filters that performed to a level that was determined less than acceptable. These filters not meeting the desired performance level included cardboard and Styrofoam baffle type filters.

The EPA recognizes that spray booth filters may not achieve 98 percent efficiency in actual service, and filter performance could be affected by filter installation and booth maintenance. However, the rule does not require a test of the actual spray booth filter efficiency during actual operation since this would be cost prohibitive for most sources. Instead, the rule does require painter training that includes proper booth operation and filter maintenance.

The EPA does not believe that the final standards will lead to increased maintenance and filter replacement costs. Although the rule specifies high filter efficiency, it will also require painter training that should lead to greater transfer efficiency and reduced paint overspray. Reduced paint overspray should also reduce the amount of coating loading the filter and extend filter life, leading to reduced filter costs and booth maintenance, to ensure that optimal filter efficiency is achieved.

Comment: One commenter (0064) states that the paint overspray filter criteria are inconsistent. The commenter requests that if 98 percent capture efficiency is the criteria, then it should be enforced for all paint overspray filters. By stating in the regulation that any fiberglass or polyester filter is acceptable, the practice of using cheap, low efficiency furnace filters will grow. Instead, specifying a minimum efficiency filter of any medium would be far more effective at reducing particulate emissions.

Other commenters (0156, 0157) argued that requiring all filters besides fiberglass and polyester fiber filters to meet a 98 percent filter efficiency standard discriminated against other filter media that are capable of achieving equal efficiency. They also noted that fiberglass and polyester fiber filters routinely achieve less than 98 percent efficiency, while other media can achieve 98 percent filter efficiency.

Response: The final rule was revised so all spray booth filters, regardless of media, are required to meet the 98 percent efficiency standard. The rule was also revised to clarify that records of manufacturer specifications are sufficient for demonstrating compliance.

12.0 SPRAY GUN WASHERS

Comment: One commenter (0069) stated that the need for enclosed spray gun cleaners may be over emphasized since the intent of the rule is to prohibit the atomization of solvent through the gun into the air. Although the proposed rule indicates that spray equipment may be dismantled and cleaned in lieu of a gun wash system, this alternative seems very much overshadowed by the gun wash option and may be lost in the rule interpretation.

Another commenter (0092) stated that many industry organization members do not use enclosed gun washers to clean their spray guns and that they have had bad experience with these washers.

Another commenter (0112) stated that many miscellaneous parts coating operations employ automated spray application equipment and that it may difficult or impractical that such equipment be removed and washed in an enclosed gun washer.

Two commenters (0112, 0119) stated that the rule should allow for equipment to be cleaned by spraying a non-HAP containing solvent through the applicator outside of an enclosed gun washer.

Two commenters (0064, 0089) stated that all references to enclosed gun washers should be removed from the rule. The commenter stated that commercially available enclosed gun washers are very slow, expensive, marginal in performance, and do not address ancillary painting equipment. An open sink with brushes and solvent to flush and clean the equipment is economical, faster, and more efficient. There is no advantage of enclosed over open gun cleaners (or a bucket) with respect to the target HAP emissions. Open gun cleaners with separate solvent reservoirs may even be superior to enclosed gun washers for organic HAP emissions.

Response: The final rule was revised to clarify that an affected source is prohibited from spraying cleaning solvent through the gun in a way that creates an atomized mist of solvent and paint residue that is not captured. The intent of this requirement is to prevent the emission of the target HAP that is in the paint residue that remains in the spray gun. The EPA agrees that an

enclosed gun washer is not needed to meet this objective. To comply, you may, for example, clean a disassembled gun by hand in a bucket or vat, flush solvent through the gun without atomizing it and capturing the solvent in an enclosed container, or use an enclosed manual or automatic gun washer. The final rule does not require the use of an enclosed gun washer, but identifies an enclosed gun washer as one compliance option in addition to the other options suggested by the commenters.

13.0 REPORTING, RECORDKEEPING, AND COMPLIANCE

Comment: Two commenters (0085, 0094) felt that it would be more suitable for sources to keep the MeCl minimization plan for paint stripping operations on site rather than submitting it to the State and EPA. They stated that States and EPA would not have the time or resources necessary to review the plans, and, with another commenter (0090), were unsure what kind of review/approval process should be used. Another commenter (0087) stated that since the proposed standard imposes management practices rather than emissions limits, it is not clear what aspect of their compliance activity sources would need to report. They suggest that beyond the initial report, the only reporting that should be necessary would be a change in status relative to the threshold level for developing a MeCl minimization plan.

Response: The development and implementation of the MeCl minimization plan is designed to reduce MeCl usage and emissions at the facility level. In the proposed rule, the requirement to submit the MeCl minimization plan was included to ensure that there would be oversight of facilities' plans. However, EPA understands the commenter's point that the value of submitting them to the State or EPA would likely not offset the burden of time and resources for submittal and review. As a result, the final rule was revised so that it does not require facilities to submit their plans to State or local agencies, or the EPA. The final rule requires them to keep their plans on site and to include a statement in their initial notification or notification of compliance that they have developed their plans and met the requirements associated with the MeCl minimization plan. The final rule also includes a requirement for facilities to review their plans annually and to make changes as appropriate based on their experiences in the previous year. Documentation of this review will also replace the proposed rule requirement to submit annual compliance reports to the permitting authority. While the final rule does not require submission of the MeCl minimization plan, facilities that are required to develop plans must still submit an initial notification and a notification of compliance, and meet annual MeCl minimization plan review, revision, and recordkeeping requirements.

Comment: One commenter (0124) indicated the annual reporting time and costs appeared to be underestimated unless simple materials are developed to help streamline the efforts of small businesses to complete this reporting. The commenter predicted that small businesses would spend closer to 15 hours or more to develop something on their own and to compile all the information alone would probably take six to eight hours. If a small business owner tries to minimize his or her time spent on the report, they would have to hire a consultant at $100 per hour or more. The consultant may take just six hours to complete the work, but that total cost would be $600 instead of $219, according to the commenter. Other commenters (0047, 0116, 0119) also indicated that the reporting burden had been underestimated. Some commenters (0054, 0117, 0133) questioned whether EPA had considered the cost to EPA, State, and local implementing agencies to perform outreach and assist sources to comply, receive initial notifications, conduct field inspections, and process annual certifications. Some commenters (0064, 0071, 0079, 0092, 0117) also said that initial notifications, compliance status notifications, and annual compliance reports would place an undue burden on facilities and State agencies. One commenter (0088) suggested allowing sources to maintain records of compliance on site and make them available upon request for local, State, or Federal inspection without submission of annual reports. Another (0085) suggested the following for autobody refinishing shops: combine the initial notification with the notification of compliance status, eliminate the annual reports, keep file copies of training certifications for currently employed painters, eliminate some other records including records of deviations, and possibly the requirement to keep records for five years. The commenter made similar recommendations for paint stripping.

Response: The EPA has revised the rule to reduce the notification and reporting burden to sources and the burden to State and local agencies receiving the notifications and reports, while still retaining information needed to implement and enforce the rule. In particular, the final rule does not require facilities to submit annual compliance reports. Therefore, after the one-time initial notification and notification of compliance status (if needed), there will be no regular annual reporting burden to sources, and the implementing agencies will not need to review and track thousands of annual compliance reports. Sources will only need to submit a report if there is a change in the information contained in the initial notification, notification of compliance status, or a previous annual notification of changes report. This is a reasonable approach that reduces the burden on regulated sources, but provides EPA and delegated States with necessary compliance information. If there are no changes in a given year, the report would

be identical to what was previously submitted, either in an earlier annual report, in the initial notification, or in the notification of compliance status. Therefore, EPA believes it is appropriate to require a report only if the relevant information has changed.

Sources will still be required to submit an initial notification that they are subject to the rule. The notification contains a very brief description of the operation that is subject to the rule; however, the type of information that should be included is minimal, clearly explained in the rule, and should be readily available to the owners and operators of motor vehicle and mobile equipment surface coating shops, or miscellaneous surface coating operations. The initial notification is needed so that implementing agencies will have a list of sources that are subject to the rule and will know with which part of the rules each source must comply (e.g., surface coating or paint stripping). This is necessary so that implementing agencies can target outreach, inspection, and enforcement efforts.

In addition, sources will continue to be required to keep the proposed records to demonstrate compliance. These records are limited to painter certification records, documentation of spray booth filter efficiencies (which are expected to be supplied by the manufacturer), documentation from spray gun manufacturers (only if the source is using a spray gun other than the types listed in the rule), records of usage of paint strippers containing MeCl, and records of deviations from the rule requirements. The content of the required records is clearly explained in the rule, and the records can be kept in whatever format is easiest for the shop (hard copies or electronic). These records are needed for an inspector to determine if a source is complying with the rules.

The EPA has not reduced the amount of time that records must be retained. The records that must be retained are minimal and reducing the time they are kept from five years to two years would not affect the burden of storing these minimal records. In addition, the longer record period is the minimum needed to verify compliance with the training requirements since refresher training is needed every five years. The longer record period is also needed to ensure that paint stripping sources that have to complete a MeCl minimization plan are consistently reviewing and updating the plan on an annual basis.

Comment: Comments (0054, 0118, 0124) were made that reporting and record keeping requirements could be a problem for some workers and businesses. One commenter (0124) noted that submittals in the rule are required to be sent to the Administrator rather than a delegated authority. They suggest the language be made more clear and include information

about the delegated authority and the requirement to send only one set of reports. This commenter also noted that requests for email addresses should be made optional, since the costs of computer purchases for really small businesses was not included in the impacts analysis. Another commenter (0054) asked EPA to provide examples of reports for small businesses to use in the preparation of theirs. They also noted that delegation to a state or local agency was not clear and that there was no information provided on where to send the reports.

Response: The final rule has decreased the reporting requirements of this NESHAP. After the one-time initial notification and notification of compliance status (if needed), there will be no regular annual reporting burden to sources, and the implementing agencies will not need to review and track thousands of annual compliance reports. Sources will only need to submit further reports if there is a change in the information contained in a previous report. As the commenter suggested, EPA has made the need to provide an email address an optional entry in submitted reports. EPA has also extended the time to come into compliance from two years to three years. This will allow ample time for outreach to small businesses to answer questions about required reporting and compliance.

Comment: Three commenters (0054, 0079, 0113) questioned how EPA would use or track the information obtained in the initial notification and notification of compliance reports. One (0079) suggested that their annual emissions inventory submittal report is sufficient to document compliance with the standard, and that requiring additional reports was like imposing Title V requirements on sources for which Title V is not applicable. Another (0054) suggested that EPA resources would be better spent developing effective outreach, rather than collecting and storing paperwork. Their outreach suggestions included user friendly web pages and pamphlets on how the rule applies, guides to industry best practices, guides to training programs, and holding workshops.

Response: The initial notification is needed so that implementing agencies will have a list of sources that are subject to the rule and will know with which part of the rules each source must comply (e.g., surface coating or paint stripping). This is necessary so that implementing agencies can target outreach, inspection, and enforcement efforts such as those suggested by the commenter. As described above, EPA has also reduced the reporting burden contained in the proposed rule.

Comment: A commenter (0138) suggests that EPA state that the calendar limits in the rule do not apply when a facility elects to use the existing Title V reporting system to

demonstrate compliance with the rule. Facilities should have the option of declaring in either their initial notification or notification of compliance that they will follow the facility's existing operating permit calendar. Another commenter (0116) asked whether there are any specific permitting requirements or enforceable mechanisms for the rule when a facility is exempt from obtaining a Title V permit?

Response: EPA believes that it is not necessary to state that the calendar limits in the rule do not apply when facilities elect to use an existing Title V reporting system to demonstrate compliance with this rule, since this rule does not require any Title V reporting system to demonstrate compliance with this rule, and any existing Title V reporting system that was used to demonstrate compliance with this rule should already satisfy the calendar limits in this rule. The requirements of the rule are clearly stated, and EPA does not believe they conflict with Title V provisions. We believe that the final rule is written with enough flexibility to allow this and that all monitoring, recordkeeping, reports and equipment and management practices required by the promulgated rule are enforceable by the permit authority regardless of whether a facility is exempt from obtaining a Title V permit.

Comment: A commenter (0047) notes that though they believe controlling the product at the point of purchase would be the most effective enforcement mechanism, the enforcement mechanisms in the proposed rule would be sufficient. Another commenter (0078) voiced several concerns about enforcement: 1) many individuals/establishments do not comply with most regulations because they believe the regulating agency does not have the resources to ensure overall compliance, 2) that professional collision repair facilities already meet the requirements of the proposed rule, and 3) that those facilities who comply with the requirements become easy enforcement targets for the standard. The commenter notes that increased compliance may result if some assurance is made by the regulating agency that those who try to comply with the rule will not be the initial target for enforcement actions.

Response: EPA heard similar comments during the data collection period of the NESHAP. The rule is written to address small users who may not have previously been required to comply with regulations as well as area sources that are familiar with regulations and that already comply with the practices specified in the rule. Because of the strong trade organizations, and the three years to come into compliance in the rule, EPA believes that information sharing between the groups will 1) assist facilities in understanding what is required to come into compliance, 2) identify those who are not making attempts to comply, and 3) allow

resources to be focused on those facilities ignoring the rules while offering outreach to those attempting to comply.

Comment: One commenter (0138) supported EPA's proposal to not require facilities using less than 150 gallons per year of paint stripper to complete annual compliance reports. He suggested that EPA should require facilities that are affected sources but will not have any compliance obligations under the standard to certify in the initial notification to the non-applicability of the work practice standards in the rule, and have no further obligations.

Response: The final rule has revised the threshold for developing a MeCl minimization plant from 150 gallons per year of MeCl containing stripper to one ton per year of MeCl used in paint strippers. Sources that are below this threshold will not need to complete a MeCl minimization plan, and will not need to submit annual compliance reports. As explained in responses to other comments in this section, the reporting requirements for other types of sources have also been reduced in the final rule since proposal.

14.0 COST AND ECONOMIC IMPACTS

Comment: Several commenters (0077, 0088, 0124) reported that the number of area sources that perform miscellaneous surface coating is much larger than EPA estimated. These estimates were based on the number of miscellaneous surface coating sources known to regulatory agencies in different States. One commenter (0124) estimated that the total number of sources subject to the rule could be about 200,000 nationwide, and many of these could be small businesses. One commenter (0122) does not believe that EPA has met the criteria needed to certify that there will not be a significant impact on a substantial number of sources" as needed under the Regulatory Flexibility Act (RFA) and has underestimated the cost and economic impacts because the rule would require many sources to install spray booths and obtain operator training.

Response: The EPA agrees that the number of sources that could have been affected by the proposed rule, if interpreted to apply to all miscellaneous surface coating operations, was higher than estimated at proposal. However, the EPA has revised the final rule to clarify the intended sources to which it would apply, and to reduce the actual number of affected sources subject to the rule. Miscellaneous surface coating facilities that do not spray apply coatings that contain the target HAP will not be subject to the final rule.

The EPA believes that these changes in the final rule will more accurately reflect the number of sources that are potentially subject to the rule, and for which the proposed economic impacts were based, since only a fraction of miscellaneous surface coating sources use coatings that contain the target HAP. Based on the datasets available to EPA for the miscellaneous surface coating source category and additional information submitted by several commenters, EPA estimates that less than 10 percent of the total population of sources are spray applying coatings that contain the target HAP. In addition, many miscellaneous surface coating sources that are currently using coatings that contain the target HAP may be able to avoid being subject to the rule by either switching to coatings that do not contain the target HAP, or switching to

non-spray application technology. Based on these changes, the EPA believes that the rule will not have an adverse impact on those facilities.

Comment: Two commenters (0087, 0136) felt the number of affected paint stripping sources used to assess impacts in the proposed rule was too low. A commenter (0087) extrapolated information from California, Canada, and other sources to develop an estimate of sources affected by the proposed rule and commented that EPA's estimate of 3,000 sources was an underestimate. Using two methods to extrapolate from estimates of furniture stripping operations using MeCl-based strippers in California, one based on population and the other based on business statistics, they estimated that nationally, approximately 4,000 sources were involved in furniture stripping with MeCl-based strippers. Factoring in autobody shops use of MeCl-based strippers, the number of facilities affected is two to three times EPA's estimate of 3,000 firms. Additionally, a significantly larger number of firms would exceed the proposed 150 gallon threshold. As a result, the total cost of EPA's proposal would be significantly higher than estimated.

Response: Developing an estimate of the number of affected sources was a difficult portion of the analyses conducted, to arrive at the proposed rule and to estimate its impacts. Unlike source categories with large facilities, emission inventories were not as useful in arriving at an estimate of facility numbers. Further, this source category does not have an industrial trade organization to turn to for further information about the source category.

We appreciate the additional information on number of affected facilities provided by the commenters and considered the impacts of revising the population in the final rule. However, since little documentation was provided in support of the population estimate we have decided not to revise the estimate of sources. Finally, a change in the population totals affects the impacts proportionally and we received no adverse comments on the assumptions and basis for our proposed impacts, which indicated a cost savings, we have decided not to revise the impacts and just rely on those at proposal as a worst-case analysis.

Comment: One commenter (0088) asserted that EPA used largely major source cost information and that EPA evaluated control technologies at major sources to determine whether these technologies were reasonable, feasible, and cost-effective for area sources. It appears EPA assumes that most businesses have already purchased a paint booth, filters, and enclosed paint gun cleaners.

The same commenter (0088) estimated that in Colorado, more than 25 percent of surface coating operations are miscellaneous metal parts or plastic or other non-auto body sources. She reported that a large percentage of these operations do not utilize paint booths, do not utilize HVLP spray equipment (utilize primarily conventional spray equipment), and do not utilize enclosed gun cleaners (more than 50 percent clean equipment by hand or in the paint booth if applicable).

The commenter suggested that EPA should provide a detailed discussion to help businesses understand the cost impacts e.g., new equipment costs in addition to the costs pursuant to obtaining state air permits, annual air emissions invoices, building permits, and fire department inspections. The commenter does not believe that these costs will be offset by the reductions in coatings, and other materials as outlined in the proposed rule.

Response: The EPA's cost analysis was based on the cost of controls that were observed at area sources visited by the EPA during the development of the proposed rule. The control cost estimates that are included in the technical support document for the proposed rule were developed specifically for these source categories. These cost estimates were not adapted from analyses that were done for major sources as part of other rulemakings. The EPA believes that the cost analyses that were done for the proposed rule accurately document and present those costs that a source may be expected to incur if they had to purchase equipment to comply with the proposed rule. Additional information on the cost for equipment needed to comply with the proposed rule is also readily available from equipment vendors since these items are readily available as "off the shelf" units for most applications.

The EPA understands that not all sources may have the controls that are specified by the final rule, including spray booths. However, the EPA believes that for the large majority of surface coating operations potentially subject to the final rule, spray booths are needed to safely remove solvent vapors from spray coating operations in order to comply with OSHA standards and also fire codes. The commenter has provided no specific data that would alter EPA's determination of GACT for these source categories or the cost impacts for the final rule.

15.0 IMPLEMENTATION

Comment: One commenter (0090) recommended that EPA provide state and local agencies with sufficient additional grants so that they may participate in the implementation of additional area source rules. According to the commenter, federal grants currently fall far short of what is needed to support state and local agencies in carrying out their existing responsibilities, and budget requests for the last two years have called for additional cuts. The commenter claimed that, without additional funding, some state and local air agencies may not be able to adopt and enforce additional area source rules. The commenter further stated that, even for permitting authorities that do not adopt these area source rules, it is possible that these rules will increase their work loads and resource needs. The commenter stated that, for example, synthetic minor permits (or Federally Enforceable State Operating Permits) will need to incorporate all applicable requirements, including area source standards. Noting that the V permit fee funds are not available for these efforts, the commenter asserted that many state and local air agencies do not have sufficient resources for these responsibilities.

A second commenter (0088) did not believe that EPA has taken into consideration the burden on state resources to implement the rule, implement programs that are at least as effective as the proposed standard, or provide compliance assistance and outreach to a large number of small businesses that will contribute minimally to the target pollutants outlined in the rule.

Response: State and local air programs are an important and integral part of the regulatory scheme under the CAA. As always, EPA appreciates and applauds efforts by State and local agencies in taking delegations to implement and enforce CAA requirements, including the area source standards under section 112. We also recognize the importance of adequate resources for state and local agencies to run these programs. However, for the reasons stated below, we do not believe that this resource issue can be addressed through today's rulemaking.

As we discussed in the preamble to the proposed rule, Sierra Club sued EPA for failing to complete standards for area source categories listed pursuant to CAA sections 112(c)(3) and

112(k)(3)(B) within the time frame specified by the statute. On March 31, 2006, the court issued an order requiring EPA to complete this statutory obligation by June 15, 2009. The order also establishes interim deadlines by which EPA must complete emission standards for a specified number of area source categories. Specifically, the order requires that, by December 15, 2007, EPA promulgate standards for 9 additional categories. EPA is issuing for standards the paint stripping, plastic parts and products (surface coating), and autobody refinishing paint shop categories pursuant to section 112(c)(3) and (d)(5), as part of the Agency's effort to meet the December 15, 2007 deadline.

The level of state and local resources needed to implement this rule is not a factor that we consider in determining what constitutes "generally available control technologies or management practices" (GACT) under section 112(d)(5). That said, we do not believe that this rule will impose an undue burden on state and local authorities. We have determined that GACT for the three area source categories addressed today is a combination of management practices and equipment standards for both existing and new area sources. As explained in the proposed rule, our GACT determination reflects the practices currently in use by sources in these area source categories.

We recognize, however, that state and local agencies need adequate resources to implement EPA's area source standards. Although the resource issue cannot be resolved through today's rulemaking for the reasons stated above, EPA remains committed to working with state and local agencies. Indeed, section 112(l)(4) provides a grant program to assist states in developing and implementing programs for submittal and approval to EPA under section 112. We encourage state and local agencies to continue to pursue the grant application process under CAA section 112(l)(4).

Comment: Several commenters (0063, 0113, 0119, 0122, 0124) pointed out that most of the affected sources are small businesses with no prior experience in complying with EPA regulations and will not be aware of the new proposed regulation and how it will affect them. They want EPA to work with associations and distributors and create awareness and an outreach program to educate these small businesses about the rule and compliance steps. One commenter (0114) suggested that EPA use tools or audit mechanisms such as surveys or questionnaires to assist in source identification and compliance tracking. Certain trade associations (0063, 0113, 0119) volunteered to assist EPA in reaching out to small businesses and their member companies. Some of the commenters also added that EPA should present the rule in plain

language and with no cross-references to other rules, suggested that the use of pamphlets and WebPages and creating resource links on proper use of spray guns, training, etc., would be helpful for small businesses.

Response: The EPA will notify stakeholders the rule is final and will provide information on obtaining copies of the final rule and preamble and other information that will help sources understand the final rule. Many of these stakeholders are trade associations representing both material users and producers that can further distribute information to their members, customers, and trade journals. The EPA worked with many of these stakeholders in the development of the proposed rule, or they have submitted comments on the proposed rule.

The EPA already has two established programs that can be used to reach out to motor vehicle and mobile equipment refinishers. These are EPA's Collision Repair Industry Campaign and EPA's Design for the Environment (DfE) program. The Collision Repair Industry Campaign was established in 2006 to design and plan a national campaign to reduce toxic emissions from auto body shops. To reduce the environmental and health impacts of the collision repair industry, EPA and its partners are working with community groups across the country to develop strategies for improving the practices of auto body painting and repair shops. The campaign will also develop tools and resources for local environmental and permitting agencies and trade schools, and these can also be adapted to aid in the implementation of this final rule.

The DfE Program has worked with the automotive repair industry and individual shops to increase awareness of the health and environmental concerns associated with refinishing activities and to identify and encourage the use of safer, cleaner, more efficient practices and technologies. The strategy has focused on the use of best practices and the use of more efficient equipment to help prevent pollution before it is created.

Since many of the same requirements apply to miscellaneous surface coating sources as for motor vehicle and mobile equipment surface coating sources, the materials developed for the Collision Repair Industry Campaign and DfE can be adapted for miscellaneous surface coating sources to facilitate compliance with the final rule.

Sources can also take advantage of the Coatings Guide™ and the Solvent Alternative Guide (SAGE). The Coatings Guide™ and SAGE were developed by the Contamination Control Program at RTI International in cooperation with the U.S. EPA Air Pollution Prevention and Control Division (APPCD). The Coatings Guide™ contains several tools to help users identify low-VOC or low-HAP coatings that may serve as drop-in replacements for existing

coating operations. SAGE is a comprehensive guide designed to provide pollution prevention information on solvent and process alternatives for parts cleaning and degreasing.

Comment: One commenter (0088) believes there is significant potential for confusion among affected sources due to the extensive focus on VOC and HAP in products used in the surface coating sectors in the past and a proposed rule that focuses on heavy metals as the target pollutants. EPA will need to provide guidance for businesses to understand the similarities and differences and the need to target heavy metals versus VOC and other HAP.

Response: The EPA agrees that potential exists for confusion among surface coating sources over different rules that regulate VOC emissions, organic HAP emissions, and this rule which regulates inorganic HAP emissions. The greatest potential source of confusion is between this rule and state rules that are intended to reduce VOC emissions from similar sources performing motor vehicle and mobile equipment surface coating and miscellaneous surface coating. However, this rule has a unique set of requirements to control inorganic HAP emissions that generally do not overlap with state VOC rule requirements. To the extent that potential confusion exists between this rule and other rules affecting the same sources, the EPA can develop specific guidance to address those potential areas of confusion.

Comment: One commenter (0114) noted that since the proposed rule established that an existing source would have 120 days to submit an initial notification, and that the majority of businesses expected to be impacted by this proposal are likely unfamiliar with environmental regulation, early outreach through vendors, suppliers and trade associations would help to increase compliance with the notification requirements of the final rule.

Response: The rule was revised between proposal and promulgation so that existing sources will not have to submit the initial notification until two years after the final rule is published and one year before the existing source compliance date. New sources will have 180 days after startup or the effective date of the final rule, whichever is later, to submit their initial notification and notification of compliance status. So they will have more than 120 days to submit their initial notification. However, the EPA still agrees that it will be important to reach out to all affected sources in a timely manner to increase compliance with all aspects of the rule.

Comment: One commenter (0124) noted that states will need technical assistance to develop equivalency determinations for alternative state regulatory programs under section 112(l) of the Act. The commenter encouraged EPA to develop as many tools as possible, such as templates, guidebooks, and checklists, and also to take advantage of programs already in practice

that provide efficient and effective means to improve compliance among small businesses to make it easier to establish equivalency for the states. Another commenter (0094) also suggested that the EPA could list the elements of what a state regulation (such as a permit by rule) or program would have to have to be considered equivalent to the NESHAP.

Response: To the extent that assistance is needed for states in developing equivalency determinations under section 112(l), the EPA will work with states as needed, and will consider whether it is appropriate develop guidance with the assistance and input from the States.

Comment: Commenter (0094) requested that EPA streamline the alternative approval process under 112(l) such that if EPA does not respond to a request for an equivalency determination within 6 months, the request will be automatically approved. The commenter reported that EPA took almost two years to approve such a request.

Response: The EPA will attempt to respond to requests for equivalency determinations in a timely manner. However, the actual process for making equivalency determination is beyond the scope of this rulemaking.

Comment: One commenter (0150) questioned what would qualify as equivalent under section 112(l) and what would not qualify in each state with regards to the states being allowed to use regulation(s) equivalent to the proposed regulation.

Response: In order to have a state rule or program be determined to be equivalent to the final rule, the state would need to request an equivalency determination from the EPA. Additional information on section 112(l) delegation of federal authorities to states can be found at the following EPA website: http://www.epa.gov/ttn/uatw/112(l)/112-lpg.html.

Comment: One commenter (0107) reported that an informal canvassing of the states Environmental Results Program (ERP) Consortium's membership showed that many states expect that they will not seek delegation of this and other future area source rules. The commenter also suggested that EPA should be prepared to implement many of the area source rules in states around the country. Another commenter (0124) expressed the opinion that it is in the best interest of affected small businesses that these rules are implemented at the state level.

Response: The EPA recognizes that some states will not accept delegation and is prepared to implement this rule in those states through EPA regional offices, if needed.

Comment: One commenter (0107) recommended that EPA and the states adopt a flexible and adaptive approach to determining sector compliance rates and "equivalency" of programs. The commenter goes on to suggest a statistical approach to determining actual performance and

compliance conditions in the field, given the large universe of affected sources. The commenter concludes that an ERP is a way to facilitate implementation and that the Auto Body ERP that is currently in place in many states is easily adaptable to include such requirements as the GACT, training, and certification provisions in the rule. The commenter also recommended using workbooks, checklists, and other tools and materials developed by various states through their auto body and repair ERP to produce a new compliance guide that covers most environmental impacts, including applicable ones in the proposed rule.

A second commenter (0155) suggested that this is an opportunity for EPA and individual states to use an ERP as the preferred approach to implementing and measuring performance of this proposed standard in the auto body sector. The commenter recommended that, in order to increase the likelihood that states will seek delegation, EPA should accept states that are implementing standards using the ERP approach as being substantially equivalent to the final rule, even if it is determined that the state programs do not precisely track each and every detail of the proposed rule. The commenter asked EPA to work with states that wish to use ERP to implement the area source rules, and for EPA to use ERP to implement the rule in states that do not seek section 112(1) delegation.

Response: The EPA agrees that the tools and statistical methods developed as part of state ERPs can be used to facilitate compliance for individual sources and for determining the actual compliance rate with the final rule for a population of sources. To the extent that additional implementation tools are developed for the final rule, the EPA will consider those already developed by state ERPs for use with the final rule. The final rule spells out the minimum notification, recordkeeping, and reporting requirements that a source must meet to demonstrate compliance. These requirements were revised from the proposed rule in response to public comments and are consistent with the types of tools, such as compliance checklists and self-certifications, that are developed as part of state ERPs. Therefore, no additional changes in the final rule requirements are needed to allow the EPA or a state to use ERPs to facilitate compliance or to statistically estimate actual compliance rates.

The EPA is required to establish standards for area sources under section 112 of the Act that are equivalent to GACT. The requirements in the final rule are based on EPA's determination of what is GACT for the target HAP from each of these three source categories. If a state program is to be deemed equivalent to the final standards for purposes of delegation, then it would need to be substantially equivalent to the requirements in the final rule. Therefore,

states that adopt an ERP approach for the same source categories cannot be automatically assumed to be equivalent to the final rule and delegation decisions must still be made on a state-by-state basis pursuant to the requirements of 112(l) and EPA's regulations at 40 C.F.R. part 63, subpart E.

Comment: One commenter (0122) stated that the rule language does not meet the requirement of the June 1, 1998 Presidential Memorandum on Plain Language in Government Writing. The commenter noted that area sources are generally small businesses that are not familiar with federal regulation, how to obtain copies of the final rule, or be able to comprehend the rule requirements as currently written. The commenters suggested that the rule should be self-contained and presented in plain English with no cross references to other rules in the CFR and no instructions to "contact your EPA regional office" to discern how the rule applies. The rule should clearly explain what HAP are covered, why they are covered, and the steps that need to be taken.

Response: The EPA has strived to make the final rule as easy to understand as possible and adhere to the guidance to write in plain language. Some cross references to other subparts are necessary so that large portions of regulatory text do not need to be repeated in each rule. The EPA will work with stakeholders, including trade associations, to publicize the final rule and provide information on how copies can be obtained. To the extent that additional guidance documents are needed to explain the requirements of the rule further, EPA will work with stakeholders to develop those materials that best fit the needs of the affected sources. Guidance documents can provide the addresses and other contact information for EPA regional offices. Those regional offices can direct a source to the appropriate state or local agency if authority to implement the rule has been delegated to that agency. In the event that some states do not assume authority for the implementation of the final rule, it will be implemented by these EPA regional offices for sources located in those states.

The final rule lists the inorganic HAP that are the target for regulation under the final rule. The preamble to the proposed rule described why these HAP are being regulated and the preamble to the final rule provides further rationale to support the final rule. The final rule also explains the requirements that apply to each source and which operations and types of sources are covered by the final rule.

Comment: One commenter (0122) suggested that EPA should create web pages and pamphlets so that information is readily accessible via the internet and publications. This

information could include resource links on the proper use of spray booths and spray guns, training programs, etc. The commenter also noted that EPA needs to consider how to disseminate information to constituents who are not trade association members or who do not have internet access.

Response: The EPA will provide information on websites and through pamphlets as necessary to reach out to affected sources to facilitate compliance with the final rule. To the extent it is appropriate, the EPA will provide information on the proper use of spray booths and spray guns and training programs. However, the EPA does not intend advocate or endorse the use of particular products or services. To the extent they are needed, printed literature and guidance documents will be available to those sources that do not have internet access.

16.0 PUBLIC COMMENT PERIOD

Comment: Several commenters asked for an extension of the 30 day public period. One commenter (0054) asked for a 30-day extension until after a major trade show for their organization. Another commenter (0078) suggested that extending the comment period to 60 days would give small businesses and trade associations more time to research and provide more detailed and constructive comments. Two commenters (0083, 0098) requested a 90-day extension to the comment deadline. One commenter (0083) argued that the 30 day comment period was highly insufficient to fully assess the impact of the proposed rule on aerospace companies that could be affected. One commenter (0124) representing small business assistance programs also asked for a 60 day extension to provide more detailed and constructive comments.

Response: As noted in the Federal Register notice for the proposed rule, the EPA is under a court order to complete standards for certain area source categories by December 15, 2007, and the final standards for these three area source categories are intended to help fulfill that obligation (72 FR 52962, September 17, 2007). Therefore, it was not feasible to extend the public comment period and still allow sufficient time to analyze the public comments and revise the rule to address those comments.

However, the EPA disagrees with the commenters that the 30 day public comment period was insufficient for preparing detailed and constructive public comments. The volume and quality of comments received indicate that the comment period was sufficient for a wide variety of affected stakeholders to review the rule and prepare comments that were both detailed and constructive. Comments were received from individuals and trade associations in each of the three affected source categories. The EPA appreciates the thought and effort that went into the comments that were developed and submitted in the amount of time available. The comments also touched on almost every facet of the proposed rule and the three affected source categories. Therefore, the EPA does not believe that extending the comment period would have affected the direction in which the final rule was developed.

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